

L A W S  
OF  
HIS MAJESTY KALAKAUA,  
KING OF THE HAWAIIAN ISLANDS,  
PASSED BY THE  
LEGISLATIVE ASSEMBLY,  
AT ITS SESSION,  
1876.

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PUBLISHED BY AUTHORITY.  
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1876.



# SESSION LAWS--1876.

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## CHAPTER I.

### AN ACT

TO AMEND SECTION 1035 OF THE CIVIL CODE.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. That Section 1035 of the Civil Code be, and the same is hereby amended, to read as follows :

“Section 1035. The following property when owned by any person being a housekeeper, and having a family, shall be exempt from levy and sale on execution :

“The family bible, family pictures, and school books, two swine or six goats, and all necessary fish, meat, flour and vegetables, and one piece of land where kalo is growing, or any other vegetable, provided the same does not exceed one-half an acre, actually cultivated for family use, likewise a house lot not to exceed one-quarter of an acre, and the dwelling house and other buildings thereon situated, providing the value thereof shall not exceed two hundred and fifty dollars. But this exemption shall not apply to mechanics and material men for labor performed and material furnished in the erection of such buildings. All necessary wearing apparel, mats, beds, bedsteads, and bedding, for such person and his family. One poi board, two calabashes, one o-o, one table, six chairs, six knives and forks, six plates, six tea cups and saucers, one sugar dish, one milk pot, one tea pot, one coffee pot and six spoons. The tools and implements of any

mechanic necessary for carrying on his trade or business, not exceeding fifty dollars in value.

“The uniform of any officer or private, belonging to any of the military forces of the kingdom, his arms and accoutrements.”

SECTION 2. This Act shall take effect and become a law from and after the date of its approval, and all laws or parts of laws in conflict with the provisions thereof, are hereby repealed.

Approved this 13th day of July, A. D. 1874.

KALAKAUA R.

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## CHAPTER II.

### AN ACT

TO CARRY INTO EFFECT A CONVENTION BETWEEN HIS MAJESTY THE KING AND THE UNITED STATES OF AMERICA, SIGNED AT WASHINGTON ON THE 30TH DAY OF JANUARY, 1875.

WHEREAS, His Majesty the King did, on the 30th day of January, 1875, enter into a Convention with the United States of America, at the City of Washington, which said Convention was ratified by His Majesty at Honolulu on the 17th day of April, 1875, and ratifications were exchanged at the City of Washington on the 3d day of June of the same year.

AND WHEREAS, The said Convention provides in its fifth article, that it, the said Convention, shall go into effect as soon as it has been approved and proclaimed by His Majesty the King of the Hawaiian Islands, and shall have been ratified and duly proclaimed on the part of the Gov-

ernment of the United States, but not until a law to carry it into operation shall have been passed by the Congress of the United States. Now therefore,

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

That whensoever His Majesty shall have received satisfactory evidence that the Congress of the United States has passed laws to give full effect to the provisions of said Convention, and shall proclaim that he has received such evidence, from and after the date of such proclamation the following articles being the growth, manufacture, or produce of the United States of America, to wit :

Agricultural implements; animals; beef, bacon, pork, ham, and all fresh, smoked, or preserved meats; boots and shoes; grain, flour, meal, and bran, bread and breadstuffs, of all kinds; bricks, lime, and cement; butter, cheese, lard, tallow; bullion; coal; cordage, naval stores, including tar, pitch, resin, turpentine raw and rectified; copper and composition sheathing, nails and bolts; cotton and manufactures of cotton, bleached and unbleached, and whether or not colored, stained, painted, or printed; eggs; fish and oysters, and all other creatures living in the water, and the products thereof; fruits, nuts, and vegetables, green, dried or undried, preserved or unpreserved; hardware; hides, furs, skins, and pelts, dressed or undressed; hoop iron and rivets, nails, spikes, and bolts, tacks, brads, or sprigs; ice; iron and steel, and manufactures thereof; leather; lumber and timber of all kinds, round, hewed, sawed and unmanufactured, in whole or in part; doors, sashes, and blinds; machinery of all kinds, engines and parts thereof; oats and hay; paper, stationery, and books, and all manufactures of paper or of paper and wood; petroleum and all oils for lubricating or illuminating purposes; plants, shrubs, trees, and seeds; rice; sugar, refined or unrefined; salt;

soap; shooks, staves, and headings; wool, and manufactures of wool, other than ready-made clothing; wagons and carts for the purposes of agriculture or of drayage; wood, and manufactures of wood, or of wood and metal, except furniture either upholstered or carved, and carriages; textile manufactures, made of a combination of wool, cotton, silk, or linen, or of any two or more of them other than when ready-made clothing; harness, and all manufactures of leather; starch; and tobacco, whether in leaf or manufactured, shall be introduced into this country free of duty so long as the said Convention shall remain in force.

Approved this 18th day of July, A. D. 1876.

KALAKAUA R.

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## CHAPTER III.

### AN ACT

TO AMEND SECTION 1, CHAPTER 37, OF THE PENAL CODE.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

That Section 1 of Chapter 37 of the Penal Code be, and the same is hereby amended so as to read as follows:

“Section 1. Any idle person who is able to work, who habitually goes about begging for his own support and profit, or for the support of his family, or who without visible means of support lives in idleness eating the food of others, and any person wandering abroad and not giving a good account of himself, may be arrested and carried before any police or district justice, who shall have the power of committing such person to prison with hard labor for any period

not exceeding one year, or to bind out such idler to labor for a term not exceeding two years at any one time, with any agriculturist, planter or farmer, or with any mechanic, artisan or housekeeper. The hire (if any) paid for the services of such idler shall go, two-thirds to the person bound and one-third to the government, and in case the idler thus bound shall neglect or refuse to do the reasonable labor required of him, the person to whom he is bound is authorized to use such reasonable coercive measures as the police or district justice of the district in which he resides may from time to time indicate."

Approved this 18th day of July, A. D. 1876.

KALAKAUA R.

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## CHAPTER IV.

### AN ACT

TO AMEND SECTION 1, CHAPTER 34, OF THE PENAL CODE.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. That Section 1 of Chapter 34 of the Penal Code be, and the same is hereby amended so that the section shall read as follows :

"Section 1. Whoever is found drunk in any street, road or other public place, from the voluntary use of any intoxicating liquor, shall, on the first conviction for such offence, be punished by a fine not exceeding six dollars, and on any conviction for any like offence committed after the first conviction by a fine not exceeding twelve dollars, or by imprisonment at hard labor not more than three months, but no

prosecution for such offence shall be sustained unless it shall be commenced within six days after the commission thereof."

SECTION 2. This Act shall take effect and become a law from and after the date of its approval, and all laws and parts of laws inconsistent with its provisions are hereby repealed.

Approved this 3d day of August, A. D. 1876.

KALAKAUA R.

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## CHAPTER V.

### AN ACT

TO AMEND SECTION 1 OF CHAPTER 14 OF THE LAWS OF 1870,  
RELATING TO THE SALE OF AWA.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. That Section 1 of Chapter 14 of the laws of 1870 be, and the same is hereby amended so as to read as follows:

"Section 1. The Minister of the Interior may grant licenses for the term of one year to sell awa to any person of good character making application for the same, on receiving from the applicant the sum of five hundred dollars in Honolulu, three hundred dollars in Lahaina, Wailuku, or Hilo, and one hundred dollars in each other district. Provided that no more than three licenses shall be granted in Honolulu, and two in Lahaina, Wailuku and Hilo, and one in each other collection district.

"It being, however, expressly understood that every one wishing for the licenses shall make his application on or be-



fore the first day of November of each year, and the license shall take effect on the first day of January following, and if there shall be more applicants than the number of licenses which may be allowed by law, the licenses shall be set up at auction at such place in the district as the Minister of the Interior may direct, at an upset price not less than the price hereinabove prescribed.”

SECTION 2. This Act shall take effect and become a law from and after the date of its approval, and all laws inconsistent herewith are hereby repealed.

Approved this 3d day of August, A. D. 1876.

KALAKAUA R.

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## CHAPTER VI.

### AN ACT

TO AMEND AN ACT ENTITLED AN ACT TO ABOLISH THE OFFICE OF THE CIRCUIT JUDGE OF THE ISLAND OF OAHU, APPROVED ON THE 13TH DAY OF JULY, A. D. 1874, (CHAPTER IX, SESSION LAWS OF 1874).

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

That the 4th Section of the Act entitled an Act to abolish the office of the Circuit Judge of the Island of Oahu, be and the same is hereby amended so as to read as follows :

“Section 4. The appeal cases under this Act may be heard by any Justice of the Supreme Court at Chambers in Honolulu, or in the districts where such appeal cases may have arisen, and one of the Justices of the said Supreme Court, is hereby required to make a circuit of the Island of

Oahu, as often as may be necessary for the purpose of hearing appeals and other business which may be brought before him ; and at least one week's previous notice shall be given in each district of the time and place of the hearing of such appeals, by causing notice of the same to be posted in some conspicuous place in the district, and any justice hearing any appeal case by the authority of this Statute shall have all the powers which are by law conferred upon the Circuit Judges of other Judicial Circuits in like appeal cases."

Approved this 3d day of August, A. D. 1876.

KALAKAUA R.

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## CHAPTER VII.

### AN ACT

TO AMEND SECTIONS 796, 797, 799 OF THE CIVIL CODE.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. That Section 796 of the Civil Code be and the same is hereby amended so as to read as follows :

"Section 796. Whenever fifty or more of the voters of any district shall petition the Legislative Assembly, setting forth that any person chosen as representative for said district has been elected through bribery, or any other unfair means, or that he is not qualified according to law, the Legislative Assembly shall institute an enquiry into the truth of the charges in said petition, and if they find the charges to be true, they shall immediately declare his election null and void."

SECTION 2. That Section 797 of the Civil Code be and the same is hereby amended so as to read as follows :

“Section 797. Whenever the Legislative Assembly shall declare the election of any person null and void as provided in the last preceding section, the clerk of said Legislative Assembly shall immediately notify the inspectors of election for the district in which such person was chosen of the fact of the annulment of his election ; said inspectors upon receiving such notification, shall give ten days previous public notice for holding a new election, and the electors of such district shall accordingly proceed again to procure a representative in the same manner as at the regular election.”

SECTION 3. That Section 799 of the Civil Code be and the same is hereby amended so as to read as follows :

“Section 799. In the event of any such vacancy occurring during the period in which the Legislature is in session it shall be the duty of the clerk of the Legislative Assembly immediately to notify the inspectors of election of the district in which such vacancy has occurred of that fact ; and said inspectors shall proceed to order, notify and hold a new election, as provided in the last preceding section.”

SECTION 4. This Act shall take effect and become a law from and after the date of its approval, and all laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Approved this 3d day of August, A. D. 1876.

KALAKAUA R.

## CHAPTER VIII.

### AN ACT

TO AMEND AN ACT ENTITLED AN ACT "TO PROVIDE FOR THE TAKING OF THE OATH OF ALLEGIANCE BY PERSONS IN THE EMPLOY OF THE HAWAIIAN GOVERNMENT." (CHAPTER 42 OF THE SESSION LAWS OF 1874).

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

That Section first of an Act entitled an Act "To provide for the taking of the oath of allegiance by persons in the employ of the Hawaiian Government," approved the 1st day of August, 1874, (Chapter 42 of the Session Laws of 1874) be, and the same is hereby amended so as to read as follows :

"Section 1. From and after the passage of this Act every person of foreign birth who may be appointed to any office of profit or emolument under the government of this kingdom, shall before entering upon the duties of his office, take and subscribe the oath of allegiance in manner and form prescribed by Sections 430 and 431 of the Civil Code."

Approved this 3d day of August, A. D. 1876.

KALAKAUA R.

## CHAPTER IX.

### AN ACT

TO REPEAL CHAPTER 50 OF THE SESSION LAWS OF 1874.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

That Chapter 50 of the Session Laws of 1874, being an Act entitled "An Act to amend Sections 1452 and 1453 of

the Civil Code," approved August 1st, 1874, be and the same is hereby repealed, and that the Sections 1452 and 1453 of the Civil Code, as they stood previous to the first day of August, 1874, are hereby declared to be revived and in full force and effect.

Approved this 3d day of August, A. D. 1876.

KALAKAUA R.

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## CHAPTER X.

### AN ACT

TO AMEND AN ACT ENTITLED AN ACT "TO LIMIT THE TIME WITHIN WHICH CLAIMS AGAINST THE ESTATES OF DECEASED PERSONS SHALL BE PRESENTED, AND SUITS BE COMMENCED TO ENFORCE REJECTED CLAIMS; AND AMEND SECTION 1247 OF THE CIVIL CODE," APPROVED ON THE 23D DAY OF JUNE, A. D. 1868, AND LIKEWISE TO REPEAL THE XXI CHAPTER OF THE SESSION LAWS OF 1870.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. That the second section of the Act entitled "An Act to limit the time within which claims of creditors against the estates of deceased persons shall be presented and suits be commenced to enforce rejected claims; and amend Section 1247 of the Civil Code," approved on the 23d day of June, A. D. 1868, be and the same is hereby repealed.

SECTION 2. And be it further enacted that the Section 3rd of the above recited Act be and the same is hereby amended, by striking out from the second line of the said section the words "or by a Judge of Probate," so that the

section will read as follows: If the claim be rejected by the executor or administrator, a suit must be brought upon it against the executor or administrator, within two months after such rejection or within two months after the same becomes due, or it will be forever barred.

SECTION 3. And be it further enacted that Section 5 of the said Act be and the same is hereby amended by striking out the words "or by the Judge of Probate," in the last line of the said section, so that the section shall read as follows: That Section 1247 of the Civil Code be and the same is hereby amended by inserting therein after the word "granted" in the third line of said section, the words "except in cases of claims rejected by the executor or administrator," as provided in Section 3 of this Act.

SECTION 4. And be it further enacted, that inasmuch as the Chapter 21 of the Session Laws of 1870, being an Act entitled "An Act relating to the approval of claims against the estates of deceased persons," which was approved on the 18th day of July, 1870, relates to the same subject and was intended for the carrying out the provisions of the section intended to be repealed by the 1st Section of this Act, the said 21 Chapter of the Session Laws of 1870, be and the same is hereby repealed.

Approved this 3d day of August, A. D. 1876.

KALAKAUA R.

## CHAPTER XI.

## AN ACT

TO AMEND SECTIONS 1, 2 AND 30 OF CHAPTER 59 OF THE PENAL CODE, RELATING TO THE PUBLIC HEALTH.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. That an Act entitled "An Act to amend Section 278 of the Civil Code," approved August 28th, 1860; and also an Act entitled "An Act to further amend Sections 278 and 279 of the Civil Code," approved January 10th, 1865, shall be, and hereby are repealed.

SECTION 2. That Section 1 of Chapter 59 of the Penal Code, approved July 7th, 1870, be, and the same is hereby amended to read as follows:

"Section 1. There shall be a Board of Health for the Kingdom consisting of five members, at least three of whom shall be members of the Privy Council.

"The members of the said Board shall be appointed by the King in Privy Council, and one of their number shall by him be appointed President, and all shall serve without pay and continue in office during the King's pleasure. The said Board shall be charged with the general oversight and care of the public health. In the absence of the President, a member of the Board may by it be chosen to act as Vice President pro tem., and to preside over its meetings. The said Board shall be authorized to employ a secretary, medical practitioners and agents, who shall receive such compensation for their services as shall be approved by a majority of the members of the Board at a regularly convened business meeting thereof, said compensation to be paid out of any funds available to the Board by legislative appropriation; provided however that whenever the Board shall employ its

own members the Cabinet Council shall determine the remuneration to be paid them. And the said Board of Health shall, through its President, render to the Legislature at each of its regular sessions, an accurate and detailed report of all its expenditures and transactions and such other information regarding the public health as the said Board shall deem of especial interest."

SECTION 3. That Section 2 of Chapter 59 of the Penal Code, approved July 7th, 1870, be, and the same is hereby amended to read as follows, viz. :

"Section 2. It shall not be lawful for any person to practice in this Kingdom as a physician or surgeon for compensation or reward, unless he shall have first presented to the Board of Health satisfactory evidence of his professional qualifications and good moral character, and obtained a certificate of approval from the said Board and a license to practice from the Minister of the Interior, but the Minister of the Interior with the approval of the Board of Health shall, when necessary or expedient, or when the same shall be deemed advisable, be authorized to grant permits to administer and dispense medicines to persons who shall produce to the Board of Health or to such medical examiners as the said Board, or the Minister of the Interior, shall appoint for that purpose, satisfactory evidence of qualification therefor. All persons licensed to practice medicine and surgery or permitted to administer and dispense medicines under the provisions of this section, for compensation or reward, shall attend whenever practicable on any one requiring their professional or medical services. Any person violating the provisions of this section shall, on conviction thereof, be liable to a penalty of one hundred dollars for each offence."

SECTION 4. That Section 30 of Chapter 59 of the Penal Code, approved July 7th, 1870, be, and the same is hereby amended to read as follows, viz. :



“Section 30. For the purpose of carrying into effect the law relating to the public health, the Board of Health shall be and hereby is invested with full power to apportion and disburse all sums of money that shall be appropriated by the Legislature for the preservation of the public health, and in case of pestilence or contagious disease, all such sums as shall from time to time be appropriated by the King and Privy Council for the protection of the lives and health of the people. The said Board shall observe the strictest economy in the expenditure of all public moneys placed under its control, and shall deposit with the Minister of the Interior for safe keeping, all the original vouchers for expenditures made under its direction and all books, records and papers relating to its business and transactions. All drafts upon the public treasury for expenditures under the Board of Health shall in order to their validity, be signed by the Minister of the Interior.”

SECTION 5. This Act shall become law from and after the date of its publication.

Approved this 15th day of September, A. D. 1876.

KALAKAUA R.

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## CHAPTER XII.

### AN ACT

TO AUTHORIZE THE MINISTER OF THE INTERIOR TO GRANT  
LICENSES FOR CARRYING ON THE BUSINESS OF BANKING.

WHEREAS, It is evident that the business of banking is now conducted on the same principles as other mercantile pursuits, which said mercantile pursuits however are subject to license fees, while that of banking, though a profitable

business to those engaged in it, pays no license whatever, and

WHEREAS, It is equally just and proper that the business of banking should pay a license to the government, as well as other mercantile pursuits ; therefore,

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. The Minister of the Interior is hereby authorized to issue a license to carry on the business of banking within this kingdom, to any person or persons applying therefor in writing, for the term of one year, on receiving from such applicant or applicants the sum of five hundred dollars for the use of the Hawaiian Treasury.

SECTION 2. Any person or persons who shall now or hereafter, carry on the business of banking within this Kingdom, without first having obtained a license as prescribed in Section 1 of this Act, shall on conviction before any Police or District Justice, be fined in a sum of not less than one thousand dollars.

SECTION 3. The term banking for the purposes of this Act, shall mean the receiving or taking the money of another, and the lending or advancing the same to others, and the deriving a profit from charging a higher rate of interest than allowed to the depositor, or the engaging wholly or partly in the business of buying or selling drafts or bills of exchange on persons in other countries.

SECTION 4. This Act shall become a law from and after the date of its approval.

Approved this 15th day of September, A. D. 1876.

KALAKAUA R.

## CHAPTER XIII.

### AN ACT

TO AMEND SECTION 673 OF THE CIVIL CODE.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. That Section 673 of the Civil Code be amended by striking out all words after the word "trial," so that the section as amended shall read as follows :

"Section 673. Any person entitled to a share of any such forfeiture, fine, or penalty, may be used as a witness on the trial."

SECTION 2. This Act shall take effect and become a law from and after the date of its publication, and all laws and parts of laws in conflict with the provisions of this Act are hereby repealed.

Approved this 15th day of September, A. D. 1876.

KALAKAUA R.

## CHAPTER XIV.

### AN ACT

TO AMEND SECTION 18, CHAPTER 86, OF THE PENAL CODE, OF HOLDING ELECTIONS.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

That Section 18 of Chapter LXXXVI of the Penal Code be and the same is hereby amended, by striking out the words "on an order to that effect from the Legislative Assembly next following such election," in the 12th and 13th lines of said section, and substituting therefor the words "on his own

information and complaint, or that of the Minister of Interior, or of any inhabitant of the district in which such offence may have occurred, for the use of the public treasury, and such complaint shall be heard before the Supreme Court at any one of its regular terms, or before the Circuit Court of the island on which such offence may have taken place," so that the section as amended will read as follows :

"Section 18. Each and every member of any board of inspectors of election, required by law to hold and preside at an election for a representative or representatives to the Legislative Assembly of the kingdom, who shall refuse or fail to open the poll at such election, at the hour of eight o'clock in the morning of the day fixed for such election, or who shall participate in, or be accessory to such refusal or failure ; or who shall close the poll at any such election before five o'clock in the afternoon of such election day, or who shall participate in, or be accessory to such closing of such polls, shall forfeit and pay for every such offence a fine not to exceed five hundred dollars, to be recovered by the Attorney General on his own information and complaint, or that of the Minister of Interior, or of any inhabitant of the district in which such offence may have occurred, for the use of the public treasury, and such complaint shall be heard before the Supreme Court at any one of its regular terms, or before the Circuit Court of the island on which such offence may have taken place, and all other penalties provided for in this chapter, shall be recoverable before the several police or district justices of the several districts where the offence may have been committed ; and all persons informing of any violation of this law cognizable before a police or district justice, shall be entitled to one quarter of the amount of the fine recovered from the convicted offender."

Approved this 15th day of September, A. D. 1876.

KALAKAUA R:

## CHAPTER XV.

### AN ACT

TO AMEND CHAPTER 40 OF THE PENAL CODE.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. That Chapter 40 of the Penal Code, relating to the disturbing of the quiet of the night, be and the same is hereby amended by inserting "in the streets and roads" in the second line of the Hawaiian version, so as to read as follows:

"All loud noise by night is taboo. Whoever after sunset shall by hallowing, singing in the streets, or in any other way make any disturbing or disorderly noise in any village, town or port of this Kingdom, without justifiable cause for so doing, shall be liable to summary arrest and imprisonment by any constable or police officer, and upon conviction be punished by a fine not exceeding ten dollars."

SECTION 2. This Act shall take effect and become a law from and after the date of its approval.

Approved this 15th day of September, A. D. 1876.

KALAKAUA R.

## CHAPTER XVI.

### AN ACT

TO AMEND SECTION 3 OF CHAPTER 50 OF THE PENAL CODE.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. That Section 3 of Chapter 50 of the Penal

Code be, and the same is hereby amended so as to read as follows :

“Section 3. Bail may be taken by District and Police Justices before committing the accused for trial, but after commitment no one but the justice who has heard the case, or a Judge of a Court of Record, can let a prisoner to bail. Provided, however, that when such bail is not furnished, the prisoner shall be committed to prison.”

SECTION 2. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed.

Approved this 15th day of September, A. D. 1876.

KALAKAUA R.

## CHAPTER XVII.

### AN ACT

TO AMEND AN ACT ENTITLED “AN ACT TO AMEND SECTION 1 AND SECTION 3 OF AN ACT APPROVED ON THE 22D DAY OF JUNE, A. D. 1868, TO LICENSE THE SLAUGHTER AND SALE OF BEEF,” APPROVED ON THE 18TH DAY OF JULY, A. D. 1874.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. That Section 1 of said Act be and the same is hereby amended so as to read as follows :

“Section 1. The Minister of the Interior may at any time license, for the term of one year, any applicant to slaughter and sell beef, either in Honolulu and Waialua, Island of Oahu ; Lahaina, Wailuku, and Makawao, Island of Maui ; Hilo, North Kohala, Kawaihae and Waiohinu, Island of Hawaii ; Koloa, Lihue and Hanalei, Island of Kauai ; upon receiving for such license the sum of twenty dollars ; pro-

vided, however, that this section shall not be held to apply to salted or corned beef brought from other parts of the kingdom."

SECTION 2. That Section 3 of said Act be, and the same is hereby amended to read as follows :

"Section 3. Whoever shall slaughter or sell beef in Honolulu and Waialua, Island of Oahu ; Lahaina, Wailuku and Makawao, Island of Maui ; Hilo, North Kohala, Kawaihae and Waiohinu, Island of Hawaii ; Koloa, Lihue and Hanalei, Island of Kauai ; without first obtaining a license therefor as provided in Section 1 of this Act, shall be subject to a fine of not less than ten nor more than twenty-five dollars for each offence, in the discretion of the Court."

SECTION 3. All laws or parts of laws inconsistent with the provisions of this Act, are hereby repealed.

Approved this 15th day of September, A. D. 1876.

KALAKAUA R.

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## CHAPTER XVIII.

### AN ACT

#### TO AMEND SECTION 913 OF THE CIVIL CODE.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. That Section 913 of the Civil Code be, and the same is hereby amended so as to read as follows :

"Section 913. The respective Governors, by and with the advice of the Justices of the Supreme Court, or a majority thereof, shall appoint one or more District Justices not exceeding two for each of the districts in their respective

jurisdictions, but in case a foreigner is appointed he must be proficient in the Hawaiian language.”

SECTION 2. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed.

Approved this 15th day of September, A. D. 1876.

KALAKAUA R.

## CHAPTER XIX.

### AN ACT

TO AMEND SECTION 49 OF CHAPTER 55 OF THE PENAL CODE.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. That Section 49 of Chapter 55 of the Penal Code, be and the same is hereby amended by adding certain words so as to read as follows:

“Section 49. Said Board or a majority thereof, shall give to each candidate of whose qualifications they are satisfied, a certificate to that effect, and for the convenience of those residing in the other islands, the said Board shall appoint three Commissioners in each taxation district of this Kingdom except the district of Honolulu, Oahu, who shall also be empowered to grant like certificates which shall, however, be countersigned by the President of the Hawaiian Board of Health.”

Approved this 15th day of September, A. D. 1876.

KALAKAUA R.



## CHAPTER XX.

### AN ACT

TO AMEND SECTION 53 OF CHAPTER 55 OF THE PENAL CODE.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. That the said section be and the same is hereby amended so as to read as follows :

“Section 53. Any native Hawaiian who shall practice medicine without a license, shall upon conviction thereof before a police or district justice be fined in a sum of not more than fifty nor less than fifteen dollars, provided however that no person shall be punished for doctoring any person afflicted with leprosy.”

SECTION 2. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed.

Approved this 15th day of September, A. D. 1876.

KALAKAUA R.

## CHAPTER XXI.

### AN ACT

TO AMEND SECTION 485 OF THE CIVIL CODE.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. That Section 485 of the Civil Code be, and the same is hereby amended so as to read as follows :

“Section 485. Real property belonging to the King or Queen, to the Government, to the Board of Education for

the use of schools, to incorporated or private schools, to the Queen's Hospital, to religious societies for church sites not to exceed an acre in area, and burying grounds shall not be subject to taxation.

“Personal property of the King or Queen, belonging to the Board of Education for the use of schools; to incorporated or private schools, to the Queen's Hospital and to the Government is also exempt.”

SECTION 2. This Act shall take effect and become a law from and after the date of its publication, and all laws or parts of laws in conflict with the provisions of this Act are hereby repealed.

Approved this 15th day of September, A. D. 1876.

KALAKAUA R.

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## CHAPTER XXII.

### AN ACT

TO REPEAL CHAPTER 4 OF THE LAWS OF 1874—“CONCERNING MARRIAGES OF HAWAIIAN WOMEN WITH CHINAMEN.”

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

That Chapter 4 of the Session Laws of 1874, to wit: An Act entitled “An Act concerning marriages of Hawaiian women with Chinamen,” approved on the 30th day of May, 1874, be, and the same is hereby repealed.

Approved this 16th day of September, A. D. 1876.

KALAKAUA R.

## CHAPTER XXIII.

### AN ACT

TO REPEAL CHAPTER 28 OF THE SESSION LAWS OF 1874—"RELATING TO ORDERS OF CONFIRMATION OF SALES OF REAL ESTATE BY ADMINISTRATORS AND GUARDIANS."

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

That the Act entitled an Act "Relating to orders of confirmation of sales of real estate by administrators and guardians," Chapter 28 of the Session Laws of 1874, approved on the 18th day of July, 1874, be, and the same is hereby repealed.

Approved this 18th day of September, A. D. 1876.

KALAKAUA R.

## CHAPTER XXIV.

### AN ACT

TO AMEND SECTION 500 OF THE CIVIL CODE.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. That Section 500 of the Civil Code be amended by striking out the words "except the road tax," so that the Section as amended shall read as follows:

"Section 500. The several Governors, under the direction of the Minister of Finance, shall superintend the collection of all internal taxes within their respective gubernatorial districts, and shall pay over all taxes received by them, less

the cost of collection, to the Minister of Finance. To this end the said Governors, respectively, with the approval of the Minister of Finance, shall appoint annually one tax collector in each district prescribed in the last preceding Section; and they may, with the like approval, control or remove such collectors at their pleasure."

SECTION 2. All laws and parts of laws conflicting with the same are hereby repealed.

Approved this 18th day of September, A. D. 1876.

KALAKAUA R.

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## CHAPTER XXV.

### AN ACT

#### TO PREVENT THE SPREAD OF DISEASE AMONG SHEEP.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. The Minister of the Interior may appoint a Sheep Inspector in each of the gubernatorial districts of the kingdom, upon the application of the majority of the sheep owners in such district. The term of service of said Inspector shall be two years, unless sooner removed for cause by said Minister. He shall receive no compensation for the duties of such office from the government.

SECTION 2. It shall be the duty of the Sheep Inspector, upon the written complaint of any person that any sheep or flock of sheep is infected with scab, or other infectious or contagious disease, to examine such sheep or flock in the presence of the owner or keeper thereof, and determine whether or not such complaint is true. If it be found that

any such disease exists in said sheep or flock of sheep, the Inspector shall thereupon in writing notify the owner of the same or his agent of the fact. For such services he shall be entitled to receive the sum of five dollars for each day actually engaged in such duty and his traveling expenses, which shall be paid by the person complaining. If such complainant in the written application shall not agree to become liable for such payment, the Inspector may disregard the application.

SECTION 3. It shall not be lawful to drive any sheep infected with scab or other infectious or contagious disease along any public road, without the consent first obtained in writing of the owners of sheep whose runs adjoin such roads, or on or through lands in use as sheep runs, without such consent so obtained.

SECTION 4. The owner of any sheep driven contrary to the provisions of Section 3 of this Act shall be liable, on conviction before any district or police magistrate, to a fine of not less than two hundred dollars, and higher in the discretion of such justice ; and for diseased sheep straying upon the sheep run of another, may be fined not less than twenty-five dollars for each sheep.

SECTION 5. Chapter 58 of the Penal Code, and all other laws and parts of laws contrary to the provisions of this Act, are hereby repealed.

Approved this 18th day of September, A. D. 1876.

KALAKAUA R.

## CHAPTER XXVI.

### AN ACT

TO AMEND SECTIONS 64, 65 AND 66 OF THE CIVIL CODE.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. Section 64 of the Civil Code is hereby amended so as to read as follows:

“Section 64. The Minister of the Interior may, at any time, license for the term of one year one or more suitable persons except subjects of countries with whom there are no treaties, in each island, to be public auctioneers within the respective islands for which they receive their licenses.”

SECTION 2. Section 65 is hereby amended so as to read as follows:

“Section 65. The price of an auctioneer’s license for the Island of Oahu shall be the sum of five hundred dollars, and not less than one-half of one per cent. on each sale made, and for the other islands the price shall be such a percentage on the sales made as the Minister of the Interior shall deem reasonable, not to exceed one per cent.”

SECTION 3. Section 66 of the Civil Code is hereby amended so as to read as follows:

“Section 66. Every auctioneer shall, upon receiving his license, give a bond to the Minister of the Interior in the penal sum of three thousand dollars, if the license be for the Island of Oahu, and in the penal sum of one thousand dollars for other parts of the Hawaiian Islands, with good and sufficient surety or sureties to be approved by the Minister of Interior, conditioned that he shall render a faithful account of all his sales according to law; that he shall pay quarterly to the Minister of the Interior the amount of percentage estab-

lished by his license; that he shall at no time make default in paying over to parties for whom he may have sold property the sums received by him from such sales, after deducting therefrom his commissions and expenses; and that he shall, in all things, well and truly conform to the laws relating to auctioneers.”

SECTION 4. All laws and parts of laws contrary to the provisions of this Act are hereby repealed.

Approved this 18th day of September, A. D. 1876.

KALAKAUA R.

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## CHAPTER XXVII.

### AN ACT

TO REGULATE THE PASSAGE OF WATER OVER THE LANDS OF  
THOSE NOT BENEFITTED THEREBY.

*Be it Enacted by the King and the Legislative Assembly of the  
Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. Whenever any person having a right to any water, shall be desirous of leading the same on to any land in his possession for the purpose of irrigation and other uses, and it shall be necessary in order that such water should reach such land, that a ditch, irrigating canal or flume, should be constructed, or water pipes laid over the land or lands of another person, and the person so owning a right to such water is not able to agree with the person or persons over whose land or lands it is desired to lead such water, a petition may be made to any Circuit Judge of the Judicial District within which such lands are situated, and if the lands are situated on the Island of Oahu, then to any Justice of the

Supreme Court, setting forth the name or names of the owner or owners of the land or lands through which it is desired that such water way should be constructed, and all the facts necessary for the understanding of the case, and shall be accompanied with maps sufficient to show the route of the proposed water way, and praying that a right of way may be granted to the petitioner for such ditch, canal or other water way.

SECTION 2. On receiving a petition as in the preceding section, the judge or justice to whom such petition is addressed, shall issue a citation to the party or parties over whose land or lands such water way may be proposed to be constructed, such citation shall be returnable in not less than twenty days, and shall be, to show cause why such water way may not be constructed over such land or lands. The judge to whom such petition is addressed, shall hear the testimony which may be offered regarding the propriety and utility of constructing such canal or other water way, and the amount of damages which may be done to the owner or owners of the land or lands over which such water way be led, including therein not only the value of the land taken, but also the consequential damage if any occasioned by the severance of the lands or otherwise as well as the proper place for locating such water way, and shall record the testimony taken, and if he shall find that the construction of such water way is reasonable, proper and useful, he shall enter judgment accordingly, adjudging a right of way for the proposed water course and authorizing its construction. But no water way as provided by such judgment, shall be constructed until after the amount of damages and costs adjudged as aforesaid, shall have been paid by the party petitioning for the right of water way, and the judge may include in the bill of costs at his discretion, a reasonable fee for counsel for the respondent or respondents.



SECTION 3. The judgment referred to in the second section of this Act, if in favor of the petitioner, shall set forth the route and description of the proposed water course, and what fences if any shall be maintained by the applicant to protect the same, and what bridges or crossing places if any shall also be maintained by the applicant, and a certificate fully setting forth such judgment shall be given to both parties, and after the construction of such water way it shall be incumbent on the owner of such water right, his heirs and assigns, to keep such water way, fences, bridges, and crossing places in repair, and for that purpose shall have the right of entry at all reasonable times, and such owner of such water right, his heirs and assigns, shall be answerable at all times to the owner of the land, his heirs and assigns, for any damage that may occur by reason of such water way overflowing the same or the fences, bridges or crossing places not being kept in proper and reasonable repair. If the judge before whom any such case may be heard, shall find that the proposed water way is unreasonable or inexpedient, he shall enter a judgment for the respondent.

SECTION 4. The costs in the cases provided for in this Act, shall be the same as allowed in the Supreme Court for like services, and if on the application of either party it shall be deemed necessary for the judge before whom such petition is heard, to visit and view the premises over which such water is to be conducted, there shall be likewise paid as costs for the personal benefit of said judge, the sum of ten dollars for each visit, and ten cents for each mile traveled in going and returning on such visit; provided, however, that the costs of such viewing the locus in quo shall be paid by the party requesting such visit.

SECTION 5. If any person shall desire to drain wet land, and it shall be necessary for him to cross with drains the land or lands of others in order that the said drains may reach a

water course, the sea or some place whence to convey such drainage, such person shall proceed and judgment shall be rendered in such case in like manner as hereinbefore provided for the transmission of water, for the purpose of irrigation and other uses.

SECTION 6. If either party shall be dissatisfied with the decision of any judge, before whom any cause arising under this Act shall be brought, he may appeal to the judges of the Supreme Court sitting in banco, and his appeal shall be heard upon the record, but either party may adduce before such judges such further testimony as he may be enabled. If the respondent shall appeal, and shall not succeed in reversing the judgment below or increasing the damages by one third, he shall pay the costs of the appeal, but in all other cases, the costs of said appeal shall be borne by the petitioner.

SECTION 7. The several judges before whom any case provided for by this Act may be brought, shall have like power to compel the attendance of witnesses, and to enforce their orders and decrees as are now customary or may hereafter be granted to any of the Courts of this Kingdom.

SECTION 8. The word "person" as used in this Act shall be held to mean not only individuals, but any and all associations or corporations, the Commissioners of Crown Lands and any Department of His Majesty's Government, and shall also include owner as well as occupier.

Approved this 18th day of September, A. D. 1876.

KALAKAUA R.

## CHAPTER XXVIII.

## AN ACT

TO PROMOTE INTER-ISLAND STEAM COMMUNICATION.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. The Minister of the Interior is hereby authorized to accept and enter into a contract with responsible parties tendering for the same, and giving satisfactory bonds, to maintain a suitable steamer of not less than 500 tons register according to present mode of admeasurement, in the inter-island steam service, as hereinafter specified, for a period not to exceed ten years, and to pay therefor an annual subsidy of not exceeding twelve hundred and fifty dollars per month, provided such contract be tendered for and entered into on or before the first day of December next.

SECTION 2. The said service shall consist of not less than two trips each month from Honolulu, around the Island of Hawaii touching at the usual ports and back to Honolulu, one trip each month to Hilo or Kealakekua, alternating and touching at the usual ports and back to Honolulu, and one trip each month around the Island of Kauai, touching at the usual ports and back to Honolulu.

SECTION 3. In the event of no contract being entered into as provided by Section 1, the Minister of the Interior is hereby authorized to contract for the delivery at the port of Honolulu, of a steamer for the Government of not less than 500 tons Hawaiian register, suitable for the performance of the inter-island steam service of this Kingdom. The said steamer to be delivered at the said port within one year from the first day of January next, and the said Minister is further

authorized to pay for the said steamer a sum not to exceed one hundred thousand dollars.

SECTION 4. The Minister of Finance is hereby authorized to issue bonds of the Hawaiian Government, with coupons attached, for such amounts as such Minister may deem expedient, to the aggregate amount of not more than one hundred thousand dollars, said bonds shall be payable at the Hawaiian Treasury at such times within the term of ten years, from the date of the bonds as the Minister of Finance shall deem expedient, and shall bear interest at not more than nine per cent. per annum, such interest to be paid semi-annually.

SECTION 5. The Minister of the Interior is hereby authorized at any time after the delivery to him of the said steamer, to sell the same to any responsible party or parties, for a sum not less than the cost of said steamer with interest added, always provided that the purchasers of said steamer shall enter into a contract with the Minister of the Interior to maintain the inter-island steam service of this Kingdom, for a period not less than six years in as efficient a manner as such a steamer may be able to do, making the same number of trips as provided in Section 2. And the said contractors shall give a bond with sufficient sureties and penalties, conditioned for the full and efficient performance of such contract, such bond to be to the Minister of the Interior, and the sureties and penalties to be to the satisfaction of the said Minister.

SECTION 6. The Minister of the Interior, in case he shall sell the steamer, which he is authorized by the preceding section to purchase or contract for, shall enter into a contract with the purchasers thereof, to perform the inter-island steam service, and is hereby authorized to pay to the parties with whom he may contract as aforesaid in consideration for such

service, a sum of money not exceeding twelve hundred and fifty dollars for each and every month of such service, such payments shall be made by the warrant of the Minister of the Interior on the Public Treasury, and the Minister of Finance is hereby authorized and required to pay such warrants out of any money in the Treasury not otherwise specifically appropriated.

SECTION 7. If at any time within one year previous to the expiration of the contract authorized by the fifth section of this Act, the Minister of the Interior shall deem it expedient and for the public interest to extend the said contract, he is hereby authorized so to do, provided the said extension shall not exceed four years from and after the expiration of the first contract, and upon making such extension the said Minister of the Interior is hereby authorized to make such modifications in the terms of such contract as he may deem for the public interest.

SECTION 8. The Minister of the Interior is hereby directed in case he shall make a sale of the steamer by this Act authorized, to return the proceeds of said sale immediately into the Public Treasury.

SECTION 9. The parties entering into a contract with the Minister of the Interior either under the first or third sections of this Act, shall in addition to the subsidies previously provided for, be entitled to import free of duty all materials required for the construction and use of the vessels employed in such service, and shall also be entitled to all the rights, privileges and immunities now secured to foreign steam lines by an Act approved on the 1st day of August, A. D. 1874, entitled "An Act to encourage steam navigation with foreign countries."

SECTION 10. Any contract entered into under the authority of this Act, shall provide for the carriage and delivery

of the public mails free of charge, and such contract may fix a price for carrying passengers and freight, and be subject to such other terms as the Minister of the Interior may deem expedient.

Approved this 18th day of September, A. D. 1876.

KALAKAUA R.

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## CHAPTER XXIX.

### AN ACT

TO AMEND SECTION 846 OF THE CIVIL CODE.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. Section 846 of the Civil Code, as amended by An Act approved on the 26th day of May, 1866, is hereby amended by striking out the words "thirty-five hundred," and inserting in place thereof the words "four thousand," so that as amended said Section shall read as follows:

"Section 846. The Chief Justice of the Supreme Court shall receive an annual salary of five thousand dollars, the First Associate Justice an annual salary of four thousand dollars, and the Second Associate Justice an annual salary of four thousand dollars, which said salaries shall be paid in monthly payments out of the Treasury of the Kingdom."

SECTION 2. All laws and parts of laws contrary to the provisions of this Act are hereby repealed.

Approved this 18th day of September, A. D. 1876.

KALAKAUA R.

## CHAPTER XXX.

## AN ACT

FOR THE PROTECTION AND PRESERVATION OF WOODS AND  
FORESTS.

WHEREAS, It is an established fact that the destruction of forests in any country tends to diminish the supply of water, therefore,

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. That the Minister of the Interior is hereby authorized to set apart and cause to be protected from damage by trespass of animals or otherwise, such woods and forest lands, the property of government, as may in his opinion be best suited for the protection of water sources, and the supply of timber and fruit trees, cabinet woods and valuable shrubbery.

SECTION 2. For the purposes contemplated in this Act, the Minister of the Interior is hereby authorized to appoint some competent person as superintendent of woods and forests, who shall, under the direction of the said Minister, enforce such rules and regulations as may be established to protect and preserve such reserved woods and forest lands from trespass. Said superintendent shall have charge of the construction of all fences and barriers required to protect the said woods and forest lands, and shall be responsible for their being kept in good condition. He shall, under the direction of the said Minister, be empowered to cause the arrest of any trespassers on such lands, and all constabulary or police of the districts in which such woods and lands may be situated, are hereby required to assist the said superintendent in carrying out the directions of the said Minister in the premises.

And it is hereby made an offence punishable by a fine not to exceed one hundred dollars or imprisonment at hard labor not to exceed one year, upon conviction before any police or district justice, of any person who shall violate any of the rules or regulations established as aforesaid tabuing such woods and forest lands.

SECTION 3. The Minister of the Interior is hereby authorized to secure from the Commissioners of Crown Lands by lease or otherwise, such woods and lands being the property of the Crown, as may be suitable for carrying out the purposes set forth in this Act.

SECTION 4. Whenever it shall be necessary to extinguish any private right or title in any woods or lands required to fully carry out the intention of this Act, the fair valuation of the same shall be determined by referees agreed upon by and between the parties interested therein and the Minister of the Interior, and the valuation so adjudged and determined shall be the extreme limit of the price to be paid by the government for such woods or lands, and upon making tender of such price so determined by the referees, it shall be lawful for the said Minister to take possession of such woods and lands for the purposes aforesaid.

SECTION 5. The superintendent of woods and forests shall receive for the faithful performance of the duties of his office, such sum as the Minister of the Interior shall direct.

SECTION 6. The sum of ——— dollars is hereby appropriated for the purpose of carrying out the provisions of this Act.

Approved this 19th day of September, A. D. 1876.

KALAKAUA R.



## CHAPTER XXXI.

### AN ACT

TO REPEAL SECTION 2 OF AN ACT ENTITLED "AN ACT TO EXTEND THE JURISDICTION OF POLICE AND DISTRICT JUSTICES TO CASES OF CRIMINAL CONVERSATION AND SEDUCTION," APPROVED DECEMBER 31ST, 1864.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

That Section 2 of an Act entitled "An Act to extend the jurisdiction of police and district justices to cases of criminal conversation and seduction," approved December 31st, A. D. 1864, be, and the same is hereby repealed.

Approved this 19th day of September, A. D. 1876.

KALAKAUA R.

## CHAPTER XXXII.

### AN ACT

TO CONSOLIDATE AND AMEND THE LAW OF EVIDENCE.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

PART 1.—*Of the Means of Obtaining Evidence.*

SECTION 1. The clerks of the several Courts of Record shall issue to the Attorney General or to the Marshal or to any sheriff or deputy sheriff, and to any party plaintiff or defendant, in any cause, civil or criminal depending before such courts respectively, or to the counsel of such party, writs of subpoena for witnesses, in blank, that the names of the wit-

nesses to be summoned may be inserted after the issuing of such writ.

SECTION 2. Such writs of subpoena shall be signed by the clerk or his deputy, and impressed with the seal of the court, and shall be obligatory upon the Marshal and his deputies, and upon the parties actually served therewith.

SECTION 3. Upon non-attendance of witnesses duly summoned, the service of the writ being proved by the oath of the officer who served the same, the court shall have summary power to cause their attendance and to punish them for contempt.

SECTION 4. The Attorney General or the sheriff on the several circuits may require of any Judge of a Court of Record, at Chambers, that witnesses material to the prosecution of any criminal indictment preferred, or about to be preferred, be bound by recognizance to appear and testify at the trial of such indictment, or that such witnesses be committed to jail for that purpose, and it shall be lawful for the Judge, so applied to, to make any such order.

SECTION 5. No person shall be bound to attend as a witness upon the trial of any civil cause, in any Court of Record, unless his traveling fees be paid, or tendered to him at the time of the service of the subpoena.

SECTION 6. Witnesses in criminal cases, whether for the prosecution or defence, shall not be entitled to any fees.

SECTION 7. It shall be lawful for any Court of Record, or any Judge thereof in any action or suit depending in any such court, upon the application of any of the parties to such action or suit, to order a commission to issue for the examination of witnesses residing in a foreign country, or in some other circuit than that in which the cause is pending, upon oath by interrogatories, or otherwise, and by the same or any subsequent order or orders to give all such directions

touching the time, place, and manner of such examination and all other matters and circumstances connected with such examinations as may appear reasonable and just, and it shall be lawful for every person authorized to take the examination of witnesses by any rule, order, writ, or commission made or issued in pursuance of this Act, and he is hereby authorized and required to take all such examinations.

SECTION 8. It shall and may be lawful for the person or persons to be named in any such rule or order as aforesaid, for taking any examination in pursuance thereof, and he and they are hereby required to make (if need be) a special report to the court wherein the action shall be depending touching such examination, and the conduct or absence of any witness or other person thereon, or relating thereto, and the court out of which the commission issued, is hereby authorized to institute such proceedings and make such order and orders upon such report, as justice may require, and as may be instituted and made in any case of contempt of that court.

SECTION 9. The costs of every application for any rule or order to be made for the examination of witnesses under any commission by virtue of this Act, and of the rule or order and proceedings thereupon, shall be costs in the cause unless otherwise directed either by the Judge making such rule or order, or by the Judge before whom the trial or enquiry of the cause may be had, or by the court wherein the action shall be depending.

SECTION 10. Whenever by virtue of this Act an examination of any witness has been taken before a Judge of a Court of Record, or before the clerk or deputy clerk thereof, or any other person or persons as aforesaid, the depositions taken down by such examiner shall be returned to and filed, and kept in the office of the clerk of the court from which

the commission issued, and office copies of such depositions may be given out to either party.

SECTION 11. No examination or deposition to be taken by virtue of this Act, shall be read in evidence without the consent of the party against whom the same may be offered, unless it shall appear to the satisfaction of the court or person having by law or consent of parties, authority to hear, receive and examine evidence that the examinant or deponent is such party, or is beyond the jurisdiction of the court or is resident in another circuit or dead, or unable from permanent sickness or other permanent infirmity to attend, in all or any of which cases, the examinations and depositions certified under the hand of the commissioners or other person taking the same, shall and may without proof of the signature to such certificate be received and read in evidence, saving all just exceptions.

SECTION 12. On the trial of any issue joined or of any matter or question or on an enquiry arising in any suit, action or proceeding in any court or before any person having by law or by consent of parties authority to hear receive and examine evidence, any person who may happen to be present, and who by virtue of this Act is competent to give evidence may be called, and required to give evidence and to produce any document, and if any such person when called and required as aforesaid, shall not appear and give evidence and (if then able so to do) produce the document, he shall be subject to the same proceedings and liabilities as if he had been duly served with a writ of subpoena, *ad testificandum* or *duces tecum*, or a summons, or other process and had received his conduct money and payment for expenses and loss of time.

SECTION 13. Either party to any suit or action depending in any Court of Record, may call on the other party by notice, to admit any fact or document, saving all just exceptions;

and every such notice and admission respectively may be in the form contained in the first and second schedules to this Act, or to the like effect; and in case of refusal or neglect to admit, the costs of proving the fact or document shall be paid by the party so neglecting or refusing, whatever the result of the case may be, unless at the hearing, trial or enquiry the judge shall certify that the refusal to admit was reasonable, and no costs of proving any document shall be allowed unless such notice be given, except in cases where the omission to give the notice is in the opinion of the court or presiding judge at the trial of the cause, a saving of expense.

SECTION 14. An affidavit of the attorney, solicitor or agent in the cause or his clerk, of the due signature of any admissions made in pursuance of such notice and annexed to the affidavit, shall be in all cases sufficient evidence of such admissions; and an affidavit of the attorney, solicitor or agent in the cause, or his clerk, of the service of any notice to produce in respect of which notice to admit shall have been given and of the time when it was served, with a copy of such notice to produce, annexed to such affidavit, shall be sufficient evidence of the service of the original of such notice, and of the time when it was served.

SECTION 15. When a witness whose testimony is wanted in any civil cause pending in this Kingdom, shall live on another Island from that on which the trial is to be held, or shall be about to go out of the Kingdom, and not to return in time for the trial, or is so sick, infirm or aged as to make it probable that he will not be able to attend at the trial, his depositions may be taken in the manner hereinafter prescribed, at the option of the party instead of by commission as hereinbefore provided.

SECTION 16. At any time after the the cause is commenced by the service of process, or after it is submitted to

arbitrators or referees, either party may apply to any District Justice or any Circuit Judge, or any clerk of a Court of Record, who shall issue a notice to the adverse party to appear before the said District Justice, Circuit Judge or clerk of a Court of Record at the time and place appointed for taking the depositions, and to put such interrogatories as he may think fit.

SECTION 17. The said notice shall be served on the agent or attorney of the adverse party, and shall have the same effect as if served on the party himself.

SECTION 18. If there are several parties on either side of the cause, plaintiffs or defendants, a notice served on either of them shall be sufficient.

SECTION 19. The notice shall be served by leaving a copy thereof at the place of abode of the person to be notified, allowing in all cases not less than twenty-four hours after such notice, before the time appointed for taking the depositions, and not less than one day additional, exclusive of Sundays for every twenty-five miles of travel of the opposite party, if he shall live more than twenty-five miles from the place of taking the deposition.

SECTION 20. The deponent shall be sworn or affirmed to testify the truth, the whole truth, and nothing but the truth, relating to the cause for which the deposition is taken, and shall then be examined by the District Justice, Circuit Judge or clerk as aforesaid or by the parties, and his testimony shall be taken in writing. The examination shall be either verbal, or by written interrogatories.

SECTION 21. The deposition shall be written by the officer before whom the deposition is taken, or by some impartial person by him appointed, in the presence and under the direction of the said officer, and shall be carefully read to or by the deponent, and shall then be subscribed by him.

SECTION 22. The officer taking the deposition shall annex

to the deposition a certificate of the time and manner of taking it, the person at whose request, and the cause or suit for which it was taken, and stating also whether the adverse party attended, and if not, stating the notice if any that was given to him.

SECTION 23. The deposition shall be delivered by the officer taking the same to the court, arbitrators, or referees before whom the cause is pending, or shall be enclosed and sealed and directed to them, and shall remain sealed until opened by the direction of any Justice of the said court, arbitrators or referees.

SECTION 24. Every objection to the competency or credibility of the deponent and to the propriety of any questions put to him, or any answers made by him, may be made when the deposition is produced in the same manner as if the witnesses were personally present and examined at the trial; and the court shall have the authority to order any testimony which is deemed inadmissible to be expunged, provided that if any deposition is taken upon written interrogatories, all objections to an interrogatory shall be made before it is answered, and if the interrogatory is not withdrawn the objection shall be noted thereon, and otherwise the objection shall not be considered.

SECTION 25. When the plaintiff in any suit shall discontinue it, or become non-suited, and another suit shall afterward be commenced for the same cause between the same parties or their representatives, all depositions and testimony lawfully taken and filed in court in any preceding suit may be used in the succeeding suit, in like manner as if taken in the said suit.

SECTION 26. Any witness may be summoned and compelled to give his depositions at any place on the island on which he has his abode, in like manner and under the same

penalties as he may be summoned and compelled to attend as witness in any court.

PART 2.—*Of Perpetuating Testimony.*

SECTION 27. Whenever any person shall be desirous of perpetuating the testimony of any witness, he shall file a petition with the clerk of any Court of Record, setting forth his claims, interest or title in, or to the subject on which he wishes to perpetuate evidence, and the names and places of residence of all other persons known to him as being interested therein, and the name or names of the witness or witnesses whom he proposes to examine; and praying from any Judge of the court in which said petition is filed, an order requiring the adverse party or parties to attend at a time and place in the order specified, that the testimony of such witness or witnesses may be taken for the purpose of being perpetuated.

SECTION 28. If the petitioner expects to be a plaintiff in any future action, he shall likewise set forth in his petition the obstacles preventing the immediate commencement of an action.

SECTION 29. If the order is granted, the deposition or depositions shall be taken before some judge of the court in which the petition is filed, the same latitude of examination and cross-examination being allowed as if a suit were actually pending, and the judge having caused the deposition to be signed on each sheet by the witness, shall certify that the depositions have been properly taken, and shall order them to be filed with the clerk of the court.

SECTION 30. If a trial shall afterwards be had between the parties named in the petition or their privies or successors in interest touching the matter of controversy set forth in the petition, the deposition filed in accordance with



the provisions of the preceding sections shall be given in evidence by either party, where the witness or witnesses are insane or dead, or their attendance for oral examination cannot be required or obtained; provided, however that such depositions shall be subject to the same objections for irrelevancy or incompetency as might be made to depositions pending an action.

SECTION 31. The applicant shall pay all costs of all proceedings under this part of this Act.

PART 3.—*The Means of Affording Discovery to Litigants.*

SECTION 32. Either party to any action or suit depending in any Court of Record, shall be at liberty to apply to the court or any judge of the Supreme Court for a rule or order for the inspection by himself or by his witnesses of any real or personal property, the inspection of which may be material to the proper determination of the question in dispute; and it shall be lawful for the court or any such judge, if they or he think fit, to make such rule or order upon such terms as to costs and otherwise as such court or judge may direct.

SECTION 33. Whenever any cause or other civil proceeding shall be pending in any Court of Record, such court or any judge of the Supreme Court may, on application made for such purpose by either of the litigants, compel the opposite party to allow the party making the application to inspect all documents in the custody or under the control of such opposite party relating to such cause or other proceeding, and if necessary to take examined copies of the same, in all cases in which previous to the passing of this Act, a discovery might have been obtained in a Court of Equity, at the instance of the party so making the application as aforesaid.

SECTION 34. Upon the application of either party to any cause or other proceeding in any Court of Record, upon an affidavit by such party of his belief that any document to the production of which he is entitled, for the purpose of discovery or otherwise is in the possession or power of the opposite party, it shall be lawful for the court or any judge of the Supreme Court, to order that the party against whom such application is made or (if such party is a body corporate) that some officer to be named of such body corporate shall answer on affidavit, stating what documents he or they has or have in his or their possession or power, relating to the matters in dispute; or what he knows as to the custody they or any of them are in, and whether he or they objects or object, (and if so on what grounds) to the production of such as are in his or their possession or power; and upon such affidavit being made, the court or judge may make such further order thereon as shall be just.

PART 4.—*Documentary Evidence.*

SECTION 35. All proclamations, treaties, and other acts of state of this kingdom or of any foreign state, and all judgments, decrees, orders, and other judicial proceedings of any Court of Justice in any part of this kingdom, or in any foreign state, and all affidavits, pleadings, and other legal documents, wills, and codicils filed or deposited in any such court, may be proved in any Court of Justice or before any person having by law or by consent of parties to hear, receive, and examine evidence, either by examined copies or by copies authenticated as hereinafter mentioned, (that is to say) if the document sought to be proved be a proclamation, treaty, or other act of state, the authenticated copy to be admissible in evidence must purport to be sealed with the great seal of this kingdom, or of the foreign state to which the original document belongs; and if the document sought to be proved

be a judgment, decree, order or other judicial proceeding of any court in this kingdom, or in any foreign state, or an affidavit, pleading, or other legal document, will or codicil filed or deposited in any such court, the authenticated copy to be admissible in evidence must purport either to be sealed with the seal of such court or (in the event of such court having no seal) to be signed by the Judge or (if there be more than one Judge) by any one of the Judges of the said court, and such Judge shall attach to his signature a statement in writing on the said copy that the court whereof he is Judge has no seal. But if any of the aforesaid authenticated copies shall purport to be signed or sealed as hereinbefore respectively directed, the same shall respectively be admitted in evidence in every case in which the original document could have been received in evidence without any proof of the seal, where a seal is necessary, or of the signature, or of the truth of the statement attached thereto, where such signature and statement are necessary, or of the judicial character of the person appearing to have made such signature and statement; and every such copy shall be prima facie evidence of the original thereof, in like manner as if such original were produced and proved in due course of law.

SECTION 36. Wherever in any legal proceedings whatsoever it shall be necessary to prove any grant of land, lease or other conveyance of any government land or real estate, it shall not be necessary to produce the original patent, grant, lease, or conveyance, but a certified copy thereof under the hand and official seal of the Minister shall be received as evidence in any court, the same as the original instrument itself.

SECTION 37. Every register of a vessel kept under any of the laws, now or hereafter to be in force relating to the registry of Hawaiian vessels, may be proved in any court or before any person having by law, or by consent of parties,

authority to hear, receive and examine, either by the production of the original, or by an examined copy thereof, or by a copy thereof purporting to be certified under the hand of the person having the charge of the original. And every such register or such copy of a register, and also every certificate of registry granted under any of such acts and purporting to be signed as required by law, shall be received in evidence in any such court, or before any such person as aforesaid, as prima facie proof of all matters contained or recited in such register, when the register or such copy thereof as aforesaid is produced, and of all the matters contained or recited in, or endorsed on such certificate of registry, when the said certificate is produced.

SECTION 38. Whenever in any legal proceeding whatsoever it may be necessary to prove the trial and conviction or acquittal of any person charged with any offense, it shall not be necessary to produce the record of the conviction or acquittal of such person or a copy thereof, but a certificate containing the substance and effect only (omitting the formal part) of the indictment, information or presentment and conviction, or acquittal for such offense, purporting to be signed by the officer having the custody of the records of the court where the offender was convicted or acquitted, or by the deputy of such officer, shall upon proof of the identity of the person be sufficient evidence of the said conviction or acquittal, without proof of the signature or official character of the person appearing to have signed the same.

SECTION 39. Whenever by any law now or hereafter to be in force, any certificate, official or public document or documents, or proceeding of any corporation, or joint stock, or other company, or any certified copy of any document or by laws, entry in any register or other book, or of any other proceeding shall be receivable in evidence of any particulars, the same shall respectively be admitted in evidence in any

court, and by any person having by law or by consent of parties authority to hear, receive and examine evidence, provided they respectively purport to be sealed or impressed with a stamp, or sealed and signed, or signed alone as required, or impressed with a stamp, and signed as directed by the respective Acts made or to be hereafter made, without any proof of the seal or stamp where a seal or stamp is necessary, or of the signature or of the official character of the person appearing to have signed the same, and without any further proof thereof in every case in which the original record or document could have been received in evidence.

SECTION 40. Whenever any book or other document is of such a public nature as to be admissible in evidence on its mere production from the proper custody, and no law exists which renders its contents provable by means of a copy, any copy thereof or extract therefrom shall be admissible in any court, or before any person having by law or by consent of parties authority to hear, receive and examine evidence, provided it be proved to be an examined copy or extract, or provided it purport to be signed and certified as a true copy or extract by the officer to whose custody the original is intrusted.

SECTION 41. The mere production of a newspaper purporting to contain public notices published by authority shall be prima facie evidence of the publication thereof, on the day on which the same bears date. And where by any law now or hereafter to be in force, His Majesty with the advice of his Cabinet or Privy Council, or any governor or Cabinet minister shall be authorized or empowered to do any act whatsoever, or where by any such law anything is required to be certified by a Cabinet minister or governor, and published in any newspaper, proof of the said newspaper purporting to contain a copy or notification of any such act or certificate shall be prima facie evidence of such act or cer-

tificate having been duly done or given, and if such newspaper purports to contain any rule, or by law, regulation matter or thing allowed, confirmed, cancelled or approved of, assented to or certified, it shall also be prima facie evidence of the purport and due making of such rule, regulation, by law, matter or thing.

SECTION 42. All copies of the votes and proceedings of the Legislature and of Royal proclamations, if purporting to be printed by authority, shall be admitted as evidence thereof by all courts and persons having by law or by consent of parties authority to hear, receive and examine evidence, without any proof being given that such copies were so printed.

SECTION 43. The probate of a will or codicil, or letters of administration with the will or codicil annexed, shall be prima facie evidence of the original will or codicil, in like manner as if such original were produced and proved in due course of law.

SECTION 44. Where any writing whatsoever shall have been copied by means of any machine or press, which produces a fac-simile impression or copy of such writing, such impression or copy shall, upon proof to the satisfaction of the court or person having by law or by consent of parties authority to hear, receive and examine evidence, that the same was taken or made from the original writing by means of such machine or press as aforesaid, be sufficient prima facie evidence of such writing without any proof that such impression or copy was compared with the said original thereof, and without any notice to produce such original.

SECTION 45. Every examination and deposition taken by virtue of any law heretofore in force shall and may be read in evidence, in the same manner as if this law had not been passed.

SECTION 46. A transcript of any of the records and judicial proceedings of any Court of Record or of any Judge of a Court of Record at Chambers, shall be admitted in evidence upon being authenticated by the attestation of the clerk of such court with the seal of such court annexed, or of the Judge at Chambers before whom the proceedings were had, with the seal aforesaid.

SECTION 47. A transcript from the docket of any Circuit Judge at Chambers, or of any Police or District Justice, of any judgment had before him, of the execution issued thereon, if any, and of the return to such execution, if any, when subscribed by said Judge or Justice shall be evidence to prove the facts stated in such transcript in any other court.

PART 5.—*Of the Substitutes for an Oath.*

SECTION 48. Every court and person now or hereafter having by law or by consent of parties authority to hear, receive and examine evidence, is hereby empowered to administer an oath to all such witnesses as are legally called before them respectively. But if any person called as a witness, or required or desiring to make an affidavit or deposition, shall refuse or be unwilling from alleged conscientious motives to be sworn, it shall be lawful for the court or person having by law or by consent of parties authority to hear, receive and examine evidence, or for any judge or person qualified to take affidavits or depositions, upon being satisfied of the sincerity of such objection, to permit such person instead of being sworn, to make his solemn affirmation or declaration in the words following, that is to say: I ..... do solemnly, sincerely, and truly affirm and declare, that the taking of any oath is according to my religious belief, unlawful, and I do now also solemnly, sincerely, and truly affirm and declare that the evidence, &c. Which solemn affirmation and declaration shall be

of the same force and effect as if such person had taken an oath in the usual form.

PART 6.—*Persons whose Evidence may be Received.*

SECTION 49. No person offered as a witness shall hereafter be excluded by reason of incapacity from crime (perjury or subornation of perjury only excepted) or interest, from giving evidence either in person or by deposition according to the practice of the court, on the trial of any issue joined or of any matter or question, or on any enquiry arising in any suit, action or proceeding in any court, or before any person having by law or by consent of parties authority to hear, receive and examine evidence. But every person so offered may and shall be admitted to give evidence, notwithstanding that such person may or shall have an interest in the matter in question, or in the event of the trial of any issue, matter, question or enquiry, or of the suit, action or proceeding in which he is offered as a witness, and notwithstanding that such person offered as a witness may have been previously convicted of any crime or offence except as aforesaid.

SECTION 50. On the trial of any issue joined, or of any matter or question, or on any enquiry arising in any suit, action or proceeding in any court, or before any person having by law or by consent of parties, authority to hear, receive and examine evidence, it shall be lawful for such court or person to receive the evidence of any minor, notwithstanding he may be destitute of the knowledge of God and of any belief in religion or in a future state of rewards and punishments. Provided always, that the evidence of such minor shall be given upon his affirmation or declaration to tell the truth, the whole truth, and nothing but the truth, or in such other form as may be approved of and allowed by such court or person as first aforesaid, and after he shall have been cautioned by such court or person that he will incur and be



liable to punishment if he do not tell the truth. Provided also, that no such evidence shall in any case be received unless it shall be proved to the satisfaction of such court or such person, that such minor perfectly understands the nature and object of such declaration or affirmation as aforesaid, and the purpose for which his testimony is required.

SECTION 51. On the trial of any issue joined, or of any matter or question, or on any enquiry arising in any suit action or proceeding in any court or before any person having by law, or consent of parties authority to hear, receive and examine evidence, the parties thereto, and the persons in whose behalf any such action, suit or proceeding may be brought or defended, and the husbands and wives of such parties and persons respectively shall (except as hereinafter excepted) be competent and compellable to give evidence, either in person or by deposition, according to the practice of the court, on behalf of either or any of the parties to the said suit, action or proceeding.

SECTION 52. The defendant in any criminal proceeding may give evidence on his own behalf, and shall thereupon be subject to cross-examination in like manner as any other witness, but in case any such person shall neglect or decline to offer himself as a witness, no inference shall be drawn prejudicial to such accused by reason of such neglect or refusal, nor shall any argument be permitted tending to injure the defence of such accused person on account of such failure to offer himself as a witness.

PART 7.—*Privileges, Disabilities, and Obligations of Witnesses.*

SECTION 53. Nothing herein contained shall render any person who in any criminal proceeding is charged with the commission of any indictable offence, or any offence punishable on summary conviction, compellable to give evidence

for or against himself; or (except as hereinafter mentioned) shall render any person compellable to answer any question tending to criminate himself, or shall in any criminal proceeding render any husband competent or compellable to give evidence against his wife, or any wife competent or compellable to give evidence against her husband, except in such cases where such evidence may now be given; provided also that in all criminal proceedings the husband or wife of the party accused shall be a competent witness for the defence.

SECTION 54. No husband shall be compellable to disclose any communication made to him by his wife during the marriage, and no wife shall be compellable to disclose any communication made to her by her husband during the marriage.

SECTION 55. No clergyman of any church or religious denomination shall, without the consent of the person making the confession, divulge in any action, suit, or proceeding, whether civil or criminal, any confession made to him in his professional character according to the uses of the church or religious denomination to which he belongs, and no physician or surgeon shall, without the consent of his patient divulge in any civil suit, action, or proceeding (unless the sanity of the patient be the matter in dispute) any information which he may have acquired in attending the patient, and which was necessary to enable him to prescribe or act for the patient.

SECTION 56. No witness shall on the trial of any issue joined, or of any matter or question, or on any enquiry arising in any suit, action or proceeding, whether civil or criminal, be permitted to refuse to answer any question which is relevant and material to the matter in issue on the ground that the answer may expose him to any penalty or

forfeiture, or may disgrace or criminate himself, unless the court or person having by law or by consent of parties authority to hear, receive and examine evidence, shall be of the opinion that the answer will tend to subject such witness to punishment for treason, felony or misdemeanor.

PART 8.—*The Means of Discrediting Evidence.*

SECTION 57. A witness may be questioned as to whether he has been convicted of any indictable or other offence; and upon being so questioned if he either denies the fact or refuses to answer, it shall be lawful for the party so questioning to prove such conviction.

SECTION 58. A party producing a witness shall not be allowed to impeach his credit by general evidence of bad character; but may contradict him by other evidence, or (in case the witness shall in the opinion of the court or person having by law or consent of parties, authority to hear, receive and examine evidence prove adverse) may by leave of such court or person prove that he has made at other times a statement inconsistent with his present testimony; but before such last mentioned proof can be given, the circumstances, of the supposed statement sufficient to designate the particular occasion must be mentioned to the witness, and he must be asked whether or not he has made such statement.

SECTION 59. If a witness upon cross-examination as to a former statement made by him relative to the subject matter of the cause or prosecution and inconsistent with his present testimony, does not distinctly admit that he has made such statement, proof may be given that he did in fact make it; but before such proof can be given, the circumstances of the supposed statement sufficient to designate the particular occasion, must be mentioned to the witness, and he must be asked whether or not he has made such statement.

SECTION 60. A witness may be cross-examined as to previous statements made by him in writing or reduced into writing relative to the subject matter of the cause or prosecution, without such writing being shown to him; but if it is intended to contradict such witness by the writing, his attention must, before such contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of so contradicting him; provided always that it shall be competent for the court or person having such authority as aforesaid, at any time during the trial or enquiry, to require the production of the writing for his inspection, and he may thereupon make such use of it for the purposes of the trial or enquiry as he shall think fit.

PART 9.—*Miscellaneous Provisions.*

SECTION 61. All courts and all persons having by law or by consent of parties authority to hear, receive and examine evidence, shall henceforth take judicial notice of the signature of every person who is, or shall be, or shall have been Premier, Cabinet or Crown Minister, Judge of the Supreme Court or of any Circuit Court, or Clerk or Deputy Clerk of the Supreme Court, or any Circuit Court, the Commissioners of the Board to quiet land titles, or masters in chancery, provided such signature shall be attached or appended to any decree, order, certificate, affidavit or other judicial or official document.

SECTION 62. It shall not be necessary to prove by the attesting witness any instrument to the validity of which attestation is not requisite; and such instrument may be proved by admission or otherwise as if there had been no attesting witness thereto.

SECTION 63. Comparison of a disputed writing with any writing proved to the satisfaction of the court or person having such authority as aforesaid to be genuine, shall be

permitted to be made by witnesses; and such writings and the evidence of witnesses respecting the same may be submitted to such court or person and the jury or assessors (if any) as evidence of the genuineness or otherwise of the writing in dispute.

SECTION 64. No confession which is tendered in evidence on any trial, shall be rejected on the ground that a promise or threat has been held out to the person confessing, unless the judge or other presiding officer shall be of opinion that the inducement was really calculated to cause an untrue admission of guilt to be made; nor shall any confession which is tendered in evidence on any trial be rejected on the ground that it purports to have been made on oath, if proof can be given to the judge or other presiding officer, that in fact it was not so made.

SECTION 65. From and after the coming into operation of this Act, it shall not be lawful for any justice or other person to administer, or cause, or allow to be received any oath or affidavit, touching any matter or thing, whereof such justice or other person hath not jurisdiction or cognizance by some law in force at the time being; but nothing in this section shall be construed to extend to any oath, solemn affirmation or affidavit before any justice in any matter or thing touching the preservation of the peace, or the prosecution, trial or punishment of offences, or touching any enquiry held before any justices in the nature of coroners' inquests respecting sudden deaths, or touching any proceedings before the Legislature or any committee thereof, nor to any oath or affidavit which may be required by the laws of any foreign country to give validity to instruments in writing designed to be used in such foreign countries.

SECTION 66. From and after the coming into operation of this law, the following laws and parts of laws shall be and the same are hereby repealed, Sections 1212 to 1227 of the

Civil Code, both inclusive. An Act approved on the 25th day of July, A. D. 1862, entitled "An Act to provide for the perpetuating of testimony." An Act approved on the 30th day of December, A. D. 1864, entitled "An Act to further facilitate the taking of testimony."

SCHEDULES.

*First Schedule.*

In the.....

Between A. B.....plaintiff,

and C. D.....defendant.

Take notice that the.....proposes to prove the several facts and documents hereunder specified, and that such documents may be inspected by the plaintiff (or defendant) his attorney or agents at.....on .....next between the hours of.....and .....o'clock, and that the plaintiff (or defendant) is hereby required within forty-eight hours from the last mentioned hour to admit the said several facts, and that such of the said documents as are specified to be originals were respectively written, signed, or executed as they purport respectively to have been, that such as are specified to be copies, are respectively true copies, and such copies as are stated to have been served, sent, or delivered were so served, sent or delivered respectively, saving all just exceptions to the admissibility of all such facts and documents as evidence in this cause.

Dated this.....day of.....18.....

G. H. attorney or agent for, &c.

To Mr.....the attorney or agent.

## ORIGINALS.

DESCRIPTION OF DOCUMENTS.	DATE.
1. An agreement signed by the Plaintiff John Doe.	1st January, 1860.
2. A letter from the Defendant to the Plaintiff.	1st February, 1860.

## COPIES.

DESCRIPTION OF DOCUMENTS.	DATE.	ORIGINAL OR DUPLICATE, SERVED, SENT, OR DELIVERED, WHEN, HOW OR BY WHOM.
1. Letter from Plaintiff to Defendant.	1st January, 1860.	Sent by Post on the same day.

## FACTS.

1. That the above named John Doe was authorized by the defendant to sign the above mentioned agreement on his behalf.
2. That John Jones died on the 1st day of March, 18....., intestate.
3. That John Smith was at the commencement of this suit, heir-at-law of the said John Jones.

*Second Schedule.*

I hereby admit the Originals numbered 1, the Copies numbered 1, and the Facts numbered 2.

A. B., Defendant's Attorney.

Approved this 19th day of September, A. D. 1876.

KALAKAUA R.

**CHAPTER XXXIII.****AN ACT****TO AMEND THE LAW RELATING TO INTERPLEADER.**

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. Upon application made by or on behalf of any defendant sued in any Court of Record in any personal action, such application being made after declaration and before plea by affidavit or otherwise, showing that such defendant does not claim any interest in the subject matter of the suit, but that the right thereto is claimed or supposed to belong to some third party who has sued or is expected to sue for the same, and that such defendant does not in any manner collude with such third party, but is ready to bring into Court or to pay or dispose of the subject matter of the action in such manner as the Court (or any judge thereof) may order or direct; it shall be lawful for the said Court or any judge thereof to make rules and orders calling upon such third party to appear and to state the nature and particulars of his claim, and maintain or relinquish his claim, and upon such rule or order to hear the allegations as well of such third party as of the plaintiff, and in the meantime to stay the proceedings in such action, and finally to order such third party to make himself defendant in the same or some other action, or to proceed to trial on one or more feigned issue or issues; and also to direct which of the parties shall be plaintiff or defendant on such trial, or with the consent of the plaintiff and such third party, their counsel or attorneys, to dispose of the merits of their claims and determine the same in a summary manner, and to make such other rules and orders therein as to costs, and all other matters as may appear to be just and reasonable.



SECTION 2. The judgment in any such action or issue as may be directed by the Court or judge, and the decision of the Court or judge, in a summary manner, shall be final and conclusive against the parties and all persons claiming by, from, or under them.

SECTION 3. If such third party shall not appear upon such rule or order to maintain or relinquish his claim, being duly served therewith, or shall neglect or refuse to comply with any rule or order to be made after appearance, it shall be lawful for the Court or judge to declare such third party and all persons claiming by, from, or under him to be forever barred from prosecuting his claim against the original defendant, his executors or administrators; saving, nevertheless, the right or claim of such third party against the plaintiff, and thereupon to make such order between such defendant and the plaintiff as to costs and other matters as may appear just and reasonable.

SECTION 4. If upon application to a judge in the first instance, or in any later stage of the proceedings, he shall think the matter more fit for the decision of the Court, it shall be lawful for him to refer the matter to the Court, and thereupon the Court shall and may hear and dispose of the same in the same manner as if the proceeding had originally commenced by rule of Court instead of the order of a judge.

SECTION 5. And whereas, difficulties sometimes arise in the execution of process against goods and chattels issued by or under the authority of the Courts in this Kingdom, by reason of claims made to such goods and chattels by assignees of bankrupts and other persons not being the parties against whom such process had issued, whereby the Marshal, Sheriffs and other officers are exposed to the hazard and expense of actions, and protection in such cases to such Marshal, Sheriffs and other officers. Be it therefore further enacted, that when any such claim shall be made to any goods or

chattels taken or intended to be taken in execution under any such process, or to the proceeds or value thereof, it shall and may be lawful to and for the Court, out of which the execution shall have issued, or any judge thereof, upon application of such Marshal, Sheriff or other officer made before or after the return of such process, and as well before as after any action brought against such Marshal, Sheriff or other officer, to call before them or him by rule, order or summons, as well the party issuing such process as the party making such claim; and thereupon to exercise for the adjustment of such claims and the relief and protection of the Marshal, Sheriff or other officer, all or any of the powers and authorities hereinbefore contained, and make such rules, orders and decisions as shall appear to be just according to the circumstances of the case; and the costs of all such proceedings shall be in the discretion of the court or judge.

SECTION 6. Where an action has been commenced in respect of a common law claim for the recovery of money or goods, or where goods or chattels have been taken or are intended to be taken in execution under process issued from any court, and the defendant in such action or the Marshal, Sheriff or other officer has applied for relief under this Act, it shall be lawful for the court or judge to whom such application is made to exercise all the powers and authorities given to them by this Act, though the titles of the claimants to the money, goods, or chattels in question or to the proceeds or value thereof have not a common origin, but are adverse to and independent of one another.

SECTION 7. When goods or chattels have been seized in execution by the Marshal, Sheriff, or other officer under process of any court, and some third person claims to be entitled under a bill of sale, chattel mortgage or otherwise, to such goods and chattels by way of security for a debt, the court or a judge may order a sale of the whole or part

thereof, upon such terms as to the payment of the whole or part of the secured debt or otherwise as they or he shall think fit; and may direct the application of the proceeds of sale in such manner and upon such terms as to such court or judge may seem just.

SECTION 8. Upon the hearing of any rule or order from a Court of Record calling upon persons to appear and state the nature and particulars of their claims, it shall be lawful for the court or judge wherever from the smallness of the amount in dispute or of the value of the goods seized, it shall appear to them or him desirable and right so to do, at the request of either party to dispose of the merits of the respective claims of such parties, and to determine the same in a summary manner upon such terms as they or he shall think fit to impose, and to make such other rules and orders therein as to costs and all other matters as may be just.

SECTION 9. In all cases of interpleader proceedings where the question is one of law and the facts are not in dispute, the judge shall be at liberty at his discretion to decide the question without directing an action or issue, and (if he shall think it desirable) to order that a special case be stated for the opinion of the Supreme Court, and the proceedings upon such case shall (as nearly as may be) be the same as upon a submission to the court under the laws now in force.

SECTION 10. The judgment in any such action or issue as may be directed by the court or judge in any interpleader proceedings and the decision of the court or any judge in a summary manner, shall be final and conclusive against the parties and all persons claiming by, from, or under them.

SECTION 11. All rules, orders, matters and decisions to be made and done in interpleader proceedings under this Act (excepting only affidavits) may, together with the declaration or summons in the cause (if any) be entered of record in the

Supreme Court, with a note in the margin expressing the true date of such entry, to the end that the same may be evidence in future times if required, and to secure and enforce the payment of costs directed by any such rule or order, and every such rule or order so entered shall have the force and effect of a judgment in the Supreme Court.

SECTION 12. From and after the coming into operation of this Act, Section 275 of the Civil Code shall be, and the same is hereby repealed.

Approved this 19th day of September, A. D. 1876.

KALAKAUA R.

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## CHAPTER XXXIV.

### AN ACT

TO AMEND THE LAW IN RELATION TO ABATEMENT OF ACTIONS AND SUITS ON THE DEATH, MARRIAGE OR BANKRUPTCY OF PARTIES THERETO.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. The death of a plaintiff or defendant shall not cause an action to abate, but it may be continued as herein-after mentioned; and where an action would but for the provisions of this Act, by reason of the death of either party, and in which the proceedings may be revived and continued under this Act, the defendant or person against whom the action may be so continued may apply by summons to compel the plaintiff, or person entitled to proceed with the action in the room of the plaintiff, to proceed according to the provisions of this Act, within such time as

the judge shall order; and in default of such proceeding, the defendant, or other person against whom the action may be so continued as aforesaid, shall be entitled to enter a suggestion of such default, and of the representative character of the person by or against whom the action may be proceeded with, as the case may be, and to have judgment for the costs of the action and suggestion against the plaintiff, or against the person entitled to proceed in his room, as the case may be, and in the latter case to be levied of the goods of the testator or intestate.

SECTION 2. If there be two or more plaintiffs or defendants, and one or more of them should die, if the cause of such action shall survive to the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants, the action shall not be thereby abated; but such death being suggested upon the record, the action shall proceed at the suit of the surviving plaintiff or plaintiffs, against the surviving defendant or defendants.

SECTION 3. In case of the death of a sole plaintiff or sole surviving plaintiff, the legal representative of such plaintiff may, by leave of the court or a judge, enter a suggestion of the death and that he is such legal representative, and the action shall thereupon proceed; and if such suggestion be made before the trial, the truth of the suggestion shall be tried thereat, together with the title of the deceased plaintiff; and such judgment shall follow upon the verdict in favor of or against the person making such suggestion as if such person were originally the plaintiff.

SECTION 4. In case of the death of a sole defendant or sole surviving defendant, where the action survives, the plaintiff may make a suggestion either in any of the pleadings, if the cause has not arrived at issue, or on the record, if it has so arrived, of the death, and that a person named therein is the

executor or administrator of the deceased, and may thereupon serve such executor or administrator with the copy of the suggestion and with a notice signed by the plaintiff or his attorney requiring such executor or administrator to appear within twenty days after service of the notice, and that in default of his so doing, the plaintiff may apply for judgment against him as such executor or administrator; and the same proceedings may be had and taken in case of non-appearance, after such notice as upon a summons against such executor or administrator in respect of the cause for which the action was brought; and in case the defendant shall not have pleaded or answered before the death, the new defendant shall plead or answer at the same time to the petition and suggestion; and in case the defendant shall have pleaded before the death, the new defendant shall be at liberty to plead to the suggestion only by way of denial, or such plea as may be appropriate to and rendered necessary by his character of executor or administrator, unless by leave of the court or a judge he shall be permitted to plead fresh matter in answer to the petition, and the pleadings upon the petition and the pleadings upon the suggestion shall be tried together, and in case the plaintiff shall recover he shall be entitled to the like judgment in respect of the debt or sum sought to be recovered, and in respect of the costs prior to the suggestion and in respect of the costs of the suggestion and subsequent thereto, he shall be entitled to the like judgment as in an action originally commenced against the executor or administrator.

SECTION 5. The death of either party between the verdict and the judgment shall not hereafter be alleged for error, if judgment be entered during the term in which such verdict was rendered, and if the plaintiff in any action happen to die after an interlocutory judgment and before a final judgment obtained therein, the said action shall not abate by reason

thereof, if such action might be originally prosecuted or maintained by the executor or administrator of such plaintiff; and if the defendant die after such interlocutory judgment and before final judgment therein obtained, the said action shall not abate if such action might be originally prosecuted or maintained against the executor or administrator of such defendant and the plaintiff, or if he be dead after such interlocutory judgment, his executors or administrators shall and may have a writ of revivor in the form contained in the schedule to this Act, or to the like effect against the defendant if living after such interlocutory judgment, or if he be dead, then against his executors or administrators, to show cause why damages in such action should not be assessed and recovered by him or them, and if such defendant, his executors or administrators shall appear at the return of such writ and not show or allege any matter sufficient to arrest the final judgment, or shall make default, and inquiry of damages shall be thereupon held, or the amount for which final judgment is to be signed shall be referred to the clerk of the Court; and upon return of the writ or delivery of the order with the amount endorsed thereon to the plaintiff, his executors or administrators, judgment final shall be given for the said plaintiff, his executors or administrators, prosecuting such writ of revivor against such defendant, his executors or administrators respectively.

SECTION 6. The marriage of a woman plaintiff or defendant shall not cause the action to abate, but the action may notwithstanding be proceeded with to judgment; and such judgment may be executed against the wife alone, or by suggestion or writ of revivor pursuant to this act judgment may be obtained against the husband and wife, and execution issued thereon; and in case of a judgment for the wife, execution may be issued thereupon by the authority of the husband, without any writ of revivor or suggestion; and if in any

such action the wife shall sue or defend by attorney, appointed by her when sole, such attorney shall have authority to continue the action or defence, unless such authority be countermanded by the husband, and the attorney changed according to the practice of the Court.

SECTION 7. The bankruptcy of or assignment by the plaintiff in any action which the assignees or trustees might maintain for the benefit of the creditors, shall not be pleaded in bar to such action, unless the assignees or trustees shall decline to continue, and give security for the costs thereof upon a judge's order to be obtained for that purpose within such reasonable time as the judge may order ; but the proceedings may be stayed until such election is made, and in case the assignees neglect or refuse to continue the action and give such security within the time limited by the order the defendant may within eight days after such neglect or refusal, by way of after-plea, plead the bankruptcy or assignment.

SECTION 8. Section 1042 of the Civil Code shall be and the same is hereby repealed.

#### SCHEDULE.

Kalakaua, by the Grace of God, etc.

To....., Esquire,

Marshal of the Kingdom, or his Deputy,

Greeting : You are hereby commanded to summon.....  
 .....of.....to be and appear before our Supreme Court  
 (or Circuit Court, as the case may be), at the.....term  
 thereof, to be holden at the Court Room of the Court House,  
 at.....in the Island of.....on.....the.....day of.....  
 next, to show cause why damages should not be assessed and  
 recovered by A. B. (or C. D. as executor of the last will and  
 testament of A. B. deceased, or as the case may be), against  
 you (if against a representative, here insert as executor of  
 the last will and testament of.....deceased, or as the case



may be), on an interlocutory judgment rendered in favor of the said A. B. (or as the case may be) on the.....day of .....in the said Court against you (or as the case may be). And notify the said.....that in default of his so doing the said A. B. (or as the case may be) may have the said damages assessed and proceed to execution.

Witness, etc.

Approved this 19th day of September, A. D. 1876.

KALAKAUA R.

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## CHAPTER XXXV.

### AN ACT

TO CONSOLIDATE AND AMEND THE LAW RELATING TO THE GARNISHEE PROCESS TO FACILITATE THE COLLECTION OF DEBTS.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. Whenever the goods or effects of a debtor are concealed in the hands of his attorney, agent, factor or trustee, so that they cannot be found to be attached or levied upon, or when debts are due from any person to a debtor, any creditor may bring his action against such debtor and in his petition for process, may request the court to insert therein a direction to the officer serving the same, to leave a true and attested copy thereof with such attorney, agent, factor or trustee, or at the place of his or their usual place of abode, and to summon such attorney, agent, factor or trustee to appear personally upon the day or term mentioned and appointed in said process for hearing the said cause, and then

and there on oath to disclose whether he has, or at the time said copy was served, had any of the goods or effects of the defendant in his hands, and if so, the nature, amount and value of the same, or is indebted to him, and the nature and amount of such debt; which summons and direction shall be signed and issued in the same manner as summonses are usually issued in civil actions, and shall be served by the officer according to such direction, and from the time of leaving such copy all the goods and effects in the hands of such attorney, agent, factor or trustee, and every debt due from such debtor to the defendant, shall be secured in his hand to pay such judgment as the plaintiff shall recover, and may not be otherwise disposed of by such attorney, agent, factor or trustee, and such notice shall be sufficient notice to the defendant to enable the plaintiff to bring his action to trial, unless the defendant be an inhabitant of this kingdom, or has sometime resided therein, and then a like copy shall be served personally upon him, or left at his last and usual place of abode.

SECTION 2. Such attorney, agent, factor or trustee upon his desire, shall be admitted to defend his principal in such suit, and if judgment be rendered in favor of the plaintiff, all the goods and effects in the hands of such attorney, agent, factor or trustee, and the debt due from such debtor or such part thereof as may be sufficient for that purpose, shall be liable to pay the same, and the plaintiff on praying out execution may direct the officer serving the same to make demand of such attorney, agent, factor or trustee of the goods and effects of the defendant in his hands, whose duty it will be to expose the same to be taken on the execution, and also to make demand of such debtor for any debt or such part thereof as may satisfy said judgment as may be due to the defendant, and it shall be the duty of the said debtor to pay the same, and if such attorney, agent, factor or trustee, shall

have in any manner disposed of the goods and effects of his principal which were in his hands when the copy of the writ was left with him, and shall not expose and subject them to be taken on execution, or if such debtor shall not pay to the officer, when demanded, the debt due to the defendant at the time the copy of the writ was left with him, such attorney, agent, factor, trustee or debtor shall be liable to satisfy such judgment out of his own estate, as his proper debt, if the goods or effects or debts be of sufficient value or amount, if not, then to the value of such goods or effects or to the amount of such debt.

SECTION 3. If the said attorney, agent, factor, or trustee or debtor fail to appear upon the day and hour of hearing named in the summons or writ above mentioned, or if, having appeared, he refuse to disclose upon oath whether he has goods or effects of the defendant in his hands, and their nature and value, or whether a debt is due from him to the debtor and its amount, the case shall proceed to trial, and if the plaintiff recover a judgment, execution shall issue at his request, against the estate of such contumacious attorney, agent, factor, trustee or debtor, for the amount of such judgment as his own proper debt, and the lawful costs; provided that if it appear on the trial that the goods and effects are of less value and the debt of less amount than the judgment recovered against the debtor, judgment shall be rendered against garnishee's to the value of the goods or the amount of the debt, and if it appears that the garnishee has no goods or effects of such debtor in his hands, or is not indebted to him, then he shall recover his lawful costs. But if he appear and on oath disclose fully whether he has in his hands the goods or effects of, or is indebted to the defendant, and it appears to the court that he has no such goods or effects or is not so indebted, then judgment shall be given for him, and he shall recover his lawful costs.

SECTION 4. It shall be lawful for any creditor who has obtained a judgment in any court, to apply to the court or a judge thereof for a rule, order or summons, that the judgment debtor shall be orally examined before a judge of such court, or such other person as such court or judge, if of a Court of Record, shall appoint as to any and what debts are owing to him, and the court or judge may make such rule or order for the examination of such judgment debtor, and for the production of any books or documents, and the examination shall be conducted in the same manner as in the case of oral examination of witnesses under the Act in that case made and provided.

SECTION 5. It shall be lawful for a judge of any court upon the ex-parte application of such judgment creditor either before or after such oral examination and upon affidavit by the judgment creditor or his attorney stating that judgment has been recovered and that it is still unsatisfied, and to what amount, and that any other person is indebted to the judgment debtor, and is within the jurisdiction, to order that all debts owing or accruing from such third person (hereinafter called the "garnishee") to the judgment debtor, shall be attached to answer the judgment debt, and by the same or any subsequent order it may be ordered that the garnishee shall appear before the judge to show cause why he should not pay the judgment creditor the debt due from him to the judgment debtor or so much thereof as may be sufficient to satisfy the judgment debt. Provided that the judge may in his discretion, refuse to interfere when from the smallness of the amount to be recovered, or of the debt sought to be attached or otherwise, the remedy sought would be worthless or vexatious.

SECTION 6. Service of an order that debts due or accruing to the judgment debtor shall be attached, or notice thereof to the garnishee in such manner as the judge shall direct, shall bind such debts in his hands.

SECTION 7. If the garnishee does not forthwith pay into court the amount due from him to the judgment debtor, or an amount equal to the judgment debt, and does not dispute the debt due or claimed to be due from him to the judgment debtor, or if he does not appear upon summons, then the judge may order execution to issue, and it may be sued forth accordingly without any previous writ or process to levy the amount due from such garnishee towards satisfaction of the judgment debt.

SECTION 8. If the garnishee disputes his liability the judge instead of making an order that execution shall issue, may order that the judgment creditor shall be at liberty to proceed against the garnishee by writ calling upon him to show cause why there should not be execution against him for the alleged debt or for the amount due to the judgment debtor, if less than the judgment debt and for costs of suit, and the proceedings upon such suit shall be the same as nearly as may be as upon a writ of revivor. Whenever it is suggested by the garnishee that the debt sought to be attached belong to some third person who has a lien or charge upon it, the judge may order such third person to appear before him and state the nature and particulars of his claim upon such debt, and after hearing the allegations of such third person under such order and of any other person whom by the same or any subsequent order the judge may think fit to call before him, or in case of such third person not appearing before him upon such summons, the judge may order execution to issue to levy the amount due from such garnishee, or the judgment creditor ~~to~~ proceed against the garnishee as herein provided, and he may bar the claim of such third person or make such other order as he shall think fit, upon such terms in all cases with respect to the lien or charge (if any) of such third person and to costs as he shall think just and reasonable.

SECTION 9. The taking of any goods or effects of any debtor, or the payment of any debt due him as aforesaid, or payment made by, or execution levied upon the garnishee under any such proceeding as aforesaid shall be a valid discharge to him as against the judgment debtor to the amount paid or levied, although such proceeding may be set aside or the judgment may be reversed.

SECTION 10. Every such attorney, agent, factor or trustee shall be paid his traveling fees and expenses for his attendance before any court under the provisions of this Act, on the same scale and at the same rate as witnesses required by subpoena to attend on the trial of any civil suit in said courts.

SECTION 11. Whensoever any person summoned as an attorney, agent, factor or debtor of any defendant may be desirous of so doing, he may apply to the magistrate or any justice of the court from whom or which the said summons may have issued, and the magistrate or justice having caused reasonable notice to be given to the plaintiff in the action, shall proceed to take the deposition of the person thus summoned, and make such order as may be proper in the premises, at any time previous to the day appointed for hearing the cause, and the person so summoned as agent, factor, trustee or debtor of the party defendant, shall be taken to have obeyed the summons.

SECTION 12. If upon disclosure made on oath by such debtor it appear that such garnishee is indebted to the defendant, but that such debt is not payable and become due until some future time, then such judgment as the plaintiff may recover shall constitute a lien upon such debt, until, and at the time it shall fall due and payable.

SECTION 13. The provisions of this Act and the powers conferred therein shall extend to all the common law courts of this kingdom, according to their jurisdiction, as at present or in future organized.

SECTION 14. The foregoing Section 11 shall be printed or written, conspicuously on every summons issuing out of any court of this kingdom which may be intended to be served on any alleged attorney, factor, trustee or debtor of a defendant in any suit.

SECTION 15. The following laws and parts of laws shall be and the same are hereby repealed. Sections numbered 956 to 961 of the Civil Code both inclusive, an Act approved on the 17th day of June, A. D. 1862, entitled "An Act to amend Article XLII of the Civil Code of the garnishee process to facilitate the collection of debts," an Act approved on the 3d day of January, A. D. 1865, entitled "An Act to amend Section 956 of the Civil Code."

Approved this 19th day of September, A. D. 1876.

KALAKAUA R.

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## CHAPTER XXXVI.

### AN ACT

TO AMEND CHAPTER 56 OF THE PENAL CODE BY THE ADDITION THEREOF OF A NEW SECTION TO BE DENOMINATED SECTION 5.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

That Chapter 56 of the Penal Code be and the same is hereby amended by the addition thereto of a new section to be denominated Section 5, which shall read as follows :

"5. The provisions of an Act entitled 'An Act to facilitate the service of criminal process,' approved on the 23d day of June, 1868, shall not be applied to the warrant provided for by Section 1 of this chapter."

Approved this 19th day of September, A. D. 1876.

KALAKAUA R.

## CHAPTER XXXVII.

### AN ACT

TO AMEND SECTION 1 OF CHAPTER 4, BEING AN ACT APPROVED ON THE 8TH DAY OF JULY, A. D. 1870, AMENDING SECTION 17, CHAPTER 16 OF THE PENAL CODE.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. That Section 1 of Chapter 4, being an Act approved on the 8th day of July, A. D. 1870, amending Section 17, Chapter 16 of the Penal Code of this Kingdom, be and the same is hereby amended so as to read as follows:

“Section 17. Whoever shall steal any neat cattle, horse, mule, sheep, ass or deer, not exceeding the value of one hundred dollars, shall upon conviction before any police or district justice be punished by imprisonment at hard labor, not less than one year nor more than three years.”

SECTION 2. Whoever shall steal any goat, swine, dog or poultry not exceeding the value of fifty dollars, shall upon conviction before any police or district justice, be punished by imprisonment at hard labor, not less than one month nor more than one year.

SECTION 3. This Act shall take effect and become a law from and after the date of its approval, and all laws and parts of laws in conflict with the provisions of the same are hereby repealed.

Approved this 19th day of September, A. D. 1876.

KALAKAUA R.



## CHAPTER XXXVIII.

## AN ACT

TO AMEND CHAPTER 86 OF THE PENAL CODE, "REGARDING THE QUALIFICATION OF ELECTORS," BY ADDING A NEW SECTION TO BE NUMBERED 17a.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. Chapter 86 of the Penal Code regarding the qualification of electors shall be, and the same is hereby amended by adding the following section to be inserted after Section 17, and to be designated Section 17a :

"Section 17a. The inspectors of election shall previously to opening the polls, set apart a sufficient space around the polling place to prevent persons not thereto authorized from interfering with the conduct of the election, and no person other than the inspectors of election, their clerk and any electors not exceeding six in number being actually engaged in voting, to be designated if necessary by the presiding officer, shall be permitted at any one time to enter or remain within the polling room or the space so set apart during the taking of the poll."

Approved this 19th day of September, A. D. 1876.

KALAKAUA R.

## CHAPTER XXXIX.

### AN ACT

TO DEFINE THE NATURE AND TO REGULATE THE ISSUING OF WRITS OF MANDAMUS, PROHIBITION, CERTIORARI, AND QUO WARRANTO.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

#### I.—OF THE WRIT OF MANDAMUS.

SECTION 1. This is an order issuing in the name of the Sovereign, by the Supreme Court in term or any Justice thereof in vacation, and addressed to an individual, or corporation, or court of inferior jurisdiction, directing him or it to perform some certain act belonging to the place, duty, or quality with which he or it is clothed.

SECTION 2. The object of this order is to prevent a denial of justice, and it therefore issues in all cases where the law has assigned no specific relief by the ordinary means, or even where a party has other means of relief, if the slowness of ordinary legal forms is likely to produce such a delay that the public good and the administration of justice will suffer from it, and where justice and reason require that some mode should exist of redressing a wrong, or an abuse of any nature whatever.

SECTION 3. The order may be directed to individuals, whether holding offices or not, to corporations, and to judges of inferior tribunals.

SECTION 4. It may be directed to a simple individual, as to the heir or other legal representative of a deceased public officer, or to such officer himself, if he be alive, or has resigned, or has been removed, to compel him to deliver to

the successor of such officer, the papers and other effects belonging to his office.

SECTION 5. It may be directed to public officers to compel them to fulfill any of the duties attached to their office, or which may be legally required of them.

SECTION 6. It may be directed to all corporations established by law:

I.—To compel them to make elections and to perform the other duties required by their charter.

II.—To compel them to receive or restore to their functions, such of their members as they shall have refused to receive, although legally chosen, or whom they shall have removed without sufficient cause.

SECTION 7. It may be directed to judges of inferior courts commanding them to render justice, and to perform the other duties of their office conformably to law.

SECTION 8. In this last case the order or Writ of Mandamus, issues not only when the judges of inferior courts are guilty of a denial of justice, or unreasonable delay in pronouncing judgment on causes before them, but also if they refuse or neglect to perform any of the duties required of them by law.

SECTION 9. The party wishing to obtain an order in any of the cases before mentioned must apply by petition addressed to the Judges of the Supreme Court, or if in vacation to any single justice thereof, stating the nature of his right, or of the injury he sustains, or of the denial of justice which he experiences, which petition shall be sworn to by the party, or by some person on his behalf cognizant of the facts.

SECTION 10. The court or judge, if sufficient ground is shown, shall issue an order addressed to the party against whom the complaint is made, by which he shall be directed

to do what has been demanded of him, or show cause to the contrary, within a certain time after the service of the order, to be fixed by the court or judge.

SECTION 11. If on the day assigned for answering the order, the party to whom it is directed answers and shows sufficient reasons to justify his conduct, the complaint shall be dismissed, and the petitioner shall pay the costs occasioned by the application.

SECTION 12. But if the party shall fail to appear and show cause, or if the cause shown shall be deemed insufficient, then a peremptory mandate shall issue to do the thing absolutely and to pay the cost of the proceedings, to which no other return shall be admitted but a certificate of perfect obedience and due execution of the writ. If the party does not obey, an order of arrest may issue, upon due proof of the service of the writ, under which the party shall be imprisoned until he has rendered obedience to the mandate.

SECTION 13. When the mandate directing the performance of a specified act, shall have issued against a corporation, the notice may be served upon the presiding officer, secretary, clerk or treasurer of such corporation, and if the corporation or the body of the directors disobey the order, it shall be punished for the contempt by the sequestration of its property until it yield obedience to the mandate.

SECTION 14. The writ or order may be served by the Marshal or any Sheriff or other peace officer, and service may be effected by delivering to the party on whom the writ or order is directed a true and certified copy thereof and at the same time showing to him the original.

## II.—OF THE WRIT OF PROHIBITION.

SECTION 15. This is a mandate which issues in the name of the Sovereign from the Supreme Court in term or from

any justice thereof in vacation, directed to the judge and the party suing in any inferior court, forbidding them to proceed any further in the cause, on the ground that the cognizance of the said cause does not belong to such court, or that the cause or some collateral matter arising therein is beyond its jurisdiction, or that it is not competent to decide it.

SECTION 16. The defendant who applies for this writ shall apply by petition addressed to the Judges of the Supreme Court, or if in vacation to any single Justice thereof, stating the cause and nature of the action brought against him, and showing that the inferior court is not competent to try it, or that it has exceeded its jurisdiction in the trial or hearing of such action, which petition shall be verified by the oath of the applicant or by some person on his behalf cognizant of the facts.

SECTION 17. The court or judge, if sufficient ground is shown, shall issue an order forbidding the judge to take cognizance of the cause, and forbidding the plaintiff or party prosecuting to prosecute it further.

SECTION 18. When on being served with such order the inferior judge acknowledges he has no jurisdiction, he shall abstain from proceeding further in the case.

SECTION 19. But if the judge, or the plaintiff or party prosecuting shall believe the inferior court is competent, he or they may file a written answer to the order, after which the court or justice issuing it shall pronounce summarily on the matter; and if the court or judge shall be of opinion that the applicant has made out his case, the prohibition shall be made perpetual, otherwise it shall allow the inferior judge to proceed to the trial and judgment of the case.

SECTION 20. If an inferior judge has rendered judgment in any of the cases before mentioned and the execution has issued, the order may be directed as well to the plaintiff or party prosecuting as to the officer charged with the execu-

tion, forbidding them to proceed in the execution in the same manner as if the prohibition had been addressed to the judge before issuing the execution.

SECTION 21. The plaintiff or party prosecuting may reply to the order in the same manner as above directed, for obtaining judgment with regard to the jurisdiction of the inferior judge.

SECTION 22. The costs shall be awarded to the parties according to the ultimate event of the application.

SECTION 23. The order may be served in like manner as before provided with respect to the Writ of Mandamus.

SECTION 24. If in contempt of the order the judge or the party shall proceed any further in the suit, the superior tribunal shall cause them to be arrested and shall punish them for such contempt, and the opposite party shall have an action for his damages against them.

### III.—OF THE WRIT OF CERTIORARI.

SECTION 25. This also is an order issuing in the name of the Sovereign by the Supreme Court in term or any justice thereof in vacation, and directed to an inferior judge commanding him to send to the Supreme Court a certified copy of the proceedings in a suit pending before him, to the end that their validity may be ascertained.

SECTION 26. This mandate concludes by enjoining the inferior judge to proceed no further in the case until judgment shall be pronounced on the regularity of his proceedings.

SECTION 27. This mandate is only granted in cases where the suit is to be decided in the last resort, and where no appeal lies by means of which proceedings absolutely void may be set aside, as when the inferior judge has refused to hear the party or his witnesses, or has pronounced sentence without having cited him to appear.

SECTION 28. The party wishing to obtain this mandate shall address his petition to the Supreme Court in term or any justice thereof in vacation, in which he shall state the causes of nullity of the acts done by the lower court to his prejudice.

SECTION 29. The truth of the facts contained in the petition shall be sworn to by the complainant or by some person cognizant of the facts, on his behalf, but with respect to the nullities alleged, he need only affirm their existence to the best of his knowledge.

SECTION 30. The inferior judge to whom this mandate is directed shall immediately send to the Supreme Court, or to the justice thereof by whose order the mandate was issued, a certified copy of the record called for, which copy shall be sealed with the seal of the court if it have one.

SECTION 31. If after the service of the mandate and the injunction contained in it, the inferior judge does not send the copy of the record called for, or if he proceeds further in the cause, an order of arrest may issue, upon due proof of the service of the writ, under which the inferior judge may be imprisoned until he shall have obeyed the mandate directed to him.

SECTION 32. The mere service of the order to send up the record renders void every act which may have been subsequently performed by the judge to whom it was directed, or by his order.

SECTION 33. If upon examining the record thus sent, it shall appear to the Supreme Court or to the justice thereof by whose order the mandate was issued, that the proceedings are null and void and have not been sanctioned by the party complaining of them, the court or judge shall avoid the proceedings, and may direct the inferior judge to try the case anew, in conformity to law.

SECTION 34. If the Supreme Court or the said justice finds that the proceedings have been regular, or that the party has waived his objection to them, the order shall be dissolved, with costs to be paid by the party who applied for it.

SECTION 35. The order may be served in like manner as before provided with respect to the Writ of Mandamus.

#### IV.—OF THE WRIT OF QUO WARRANTO.

SECTION 36. This also is an order issuing in the name of the Sovereign by the Supreme Court in term or by any justice thereof in vacation, and directed to a person who claims or usurps an office in a corporation inquiring by what authority he claims to hold such office.

SECTION 37. It may also be granted upon the application of the Attorney General against individuals acting as a corporation without being legally incorporated, and against any corporate body offending against the provisions of any law relating to such corporation, for misuser, for non-user, for doing or omitting any acts amounting to a surrender of its charter, and for exercising rights not conferred upon it.

SECTION 38. The order is obtained by petition addressed to the Supreme Court in term or any justice thereof in vacation, setting out facts sufficient to show a right to the order, and sworn to if the application is made by a private individual.

SECTION 39. The party to whom the order is directed shall file his answer in writing, within the time limited by the order, and state the authority under which he claims to act.

SECTION 40. If the party to whom the order is directed does not answer within the time allowed, the court or justice as the case may be, shall declare him not qualified to fill the



office of which he performs the duties, and shall forbid him to perform them any longer, shall condemn him to pay the costs and shall direct the corporation to proceed to a new appointment.

SECTION 41. But if the person to whom the order is directed answer within the time allowed, judgment shall be pronounced upon the answer in a summary manner, and after hearing the parties, if the court or judge who issued the order thinks that the person to whom the mandate was directed has usurped the office which he holds, or that he continues in it unlawfully, judgment shall be rendered against him in the manner provided in the preceding article, otherwise the petition shall be dismissed with costs to be paid by the applicant.

SECTION 42. In all cases contemplated by Article 4th, judgment shall be given according to the nature of the complaint made, provided however that in the event of the application being dismissed the Attorney General shall not be ordered to pay costs.

SECTION 43. The writ or order shall be served in like manner as before provided with respect to the Writ of Mandamus.

SECTION 44. Where the Legislature has granted to a corporation the right to determine the validity of the elections of its members or officers, a writ shall not be issued for the purpose of inquiring into that fact.

SECTION 45. When Writs of Mandamus, Prohibition, Certiorari or Quo Warranto are issued by a justice in vacation, the same may in his discretion be made returnable before him or before the Supreme Court at the next ensuing term thereof.

Approved this 19th day of September, A. D. 1876.

KALAKAUA R.

## CHAPTER XL.

## AN ACT

TO REGULATE THE PRACTICE AND PROCEDURE IN CRIMINAL CASES.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled.*

## I.—OF THE TIME FOR PRESENTING INDICTMENTS.

SECTION 1. In all cases of offences against the laws of this Kingdom, triable only by a Court of Record, the accused shall be arraigned and prosecuted by an indictment by a legal prosecutor of the crown, as soon after the commitment of the offence of which he is accused as may be expedient; provided always that the presentation of an indictment against an accused shall not be deferred beyond the term of the court having jurisdiction of the alleged offence next succeeding the commitment of the accused for trial by a magistrate having competent jurisdiction therefor. And the trial shall then and there be proceeded with, unless the same shall be postponed by the court as hereinafter provided.

SECTION 2. The necessary bills of indictment shall be duly prepared by a legal prosecuting officer, and be duly presented to the presiding judge of the court before the arraignment of the accused, and such judge shall, after examination, certify upon each bill of indictment whether he finds the same a true bill or not.

SECTION 3. The failure to prosecute upon the indictment if found at the ensuing term of the court, unless the venue be changed, or unless the cause be postponed by the court, or a failure to sustain the indictment upon the law involved, or a verdict of not guilty by the jury, or the successive disagreement of two juries impaneled to try the cause, shall operate

as an acquittal of the accused, and the court shall order his discharge from custody.

SECTION 4. The Attorney General or the sheriffs on the several circuits shall furnish to the clerk of the court three days before the first day of the term, a list of all criminal cases triable by jury at such term, that the calendar may be made up.

## II.—DISCHARGE WITHOUT PROSECUTION.

SECTION 5. It shall be lawful for the Attorney General, in respect of any person or persons now or hereafter imprisoned under committal for trial for any offence, to grant at any time a certificate under his hand in the form following :

To the Judges of the Supreme Court of the Hawaiian Kingdom or any one of them.

This is to certify that I decline to present an indictment against A. B. detained in the custody of the Marshal in the gaol at ..... under the warrant of C. D. Esq., Police or District Judge of ..... upon a charge of .....

Given under my hand this ..... day of ..... 18...

E. F., Attorney General.

Addressed to the Judges of the Supreme Court or any one of them, who shall thereupon by warrant under their or his hand in the form following :

To ..... Esq.

Marshal of the Hawaiian Kingdom.

Whereas, A. B. is detained in your custody under the warrant of C. D., Esq., Police or District Judge of ..... upon a charge of ..... and whereas it has been certified to us (or me) by his Excellency E. F., the Attorney General of the Kingdom, that he declines to present any indictment against the said A. B., for the said

offence; you are therefore hereby authorized and required forthwith to discharge the said A. B., from your custody upon the said warrant.

Given under our (or my) hand this ..... day of ..... 18...

G. H. }	Judges (or Judge) of the Supreme Court.
I. K. }	

Order and direct the Marshal or Gaoler in whose custody any such prisoner shall be, immediately to discharge the prisoner therein mentioned from imprisonment, in respect of the offence mentioned in the said warrant.

### III.—VENUE, &c.

SECTION 6. The offence of any person who shall be an accessory either before or after the fact to any felony may be dealt with, enquired of, tried, determined and punished by any court which shall have jurisdiction to try the principal felony or any felonies committed in any place, in which the act by reason whereof such person shall have become such accessory shall have been committed.

SECTION 7. The offence of polygamy may be dealt with, enquired of, tried, determined and punished in any jurisdiction within which the offender shall be apprehended or be in custody, in the same manner in all respects as if the offence had been actually committed within that jurisdiction.

SECTION 8. Whosoever shall receive any chattel, money, valuable security, or other property whatsoever, knowing the same to have been feloniously or unlawfully stolen, taken, obtained, converted, or disposed of, may (whether charged as an accessory after the fact of the felony, or with a substantive felony, or with a misdemeanor only) be dealt with, indicted, tried and punished in any jurisdiction in which he shall have or shall have had any such property in his possession, or in any jurisdiction in which the party guilty of the principal offence may by law be tried, in the same manner

as such receiver may be dealt with, indicted against, tried and punished in the jurisdiction where he actually received such property.

SECTION 9. Whosoever shall steal any part of any ship which shall be in distress, or shall commit any other of the offences enumerated in the Section 6 of Chapter XXIII of the Penal Code, may be indicted and tried before any Court of Record.

SECTION 10. Whosoever shall commit any offence of forging or altering any matter whatsoever, or of offering, passing, negotiating, assigning or transferring any matter whatsoever, knowing the same to be forged or altered, may be dealt with, indicted, tried and punished in any jurisdiction in which he shall be apprehended, or be in custody in the same manner in all respects as if his offence had been actually committed in that jurisdiction. And every accessory before or after the fact to any such offence, may be dealt with, indicted, tried and punished in any jurisdiction in which he shall be apprehended, or be in custody, in the same manner in all respects as if his offence, and the offence of his principal, had been actually committed in such jurisdiction.

SECTION 11. Where any person shall tender, utter, or put off any false or counterfeit coin in one jurisdiction; and shall also tender, utter or put off any other false or counterfeit coin in any other jurisdiction, either on the day of such first mentioned tendering, uttering or putting off or within the space of ten days next ensuing, or where two or more persons acting in concert in different jurisdictions shall commit any offence against Chapter XXXI of the Penal Code, every such offender, may be dealt with, indicted, tried and punished, and the offence laid and charged to have been committed in any one of the said jurisdictions in the same manner in all respects as if the offence had been actually and wholly committed within one such jurisdiction.

SECTION 12. It shall not be necessary to state any venue

in the body of any indictment, but the jurisdiction named in the margin thereof shall be taken to be the venue for all the facts stated in the body of such indictment; provided that in cases where local description is or hereafter shall be required, such local description shall be given in the body of the indictment.

SECTION 13. It shall be lawful for any Court of Record, or Judge thereof, at any stage of any criminal proceedings depending therein, whether the venue be by law local or not, to order that the venue be changed, and to direct that the trial be had in Honolulu or in some particular Judicial Circuit; in such cases and for such reasons as the justice of the case may require, and subject to such conditions as the Court or Judge may, in its or his discretion, impose.

#### IV.—JOINDER OF DEFENDANTS IN CERTAIN CASES.

SECTION 14. Any number of accessories, at different times, to any felony, and any number of receivers, at different times, of the whole or any part or parts of any property which shall at one time have been stolen, taken, extorted, obtained, embezzled, or otherwise disposed of in such a manner as to amount to a felony, may be charged with substantive felonies in the same indictment and may be tried together, notwithstanding the principal felon shall not be included in the same indictment, or shall not be in custody, or amenable to justice.

#### V.—WHAT INDICTMENTS SHALL SUFFICE AND AVAIL.

SECTION 15. No indictment for any offence shall be held insufficient for want of the averment of any matter unnecessary to be proved, nor for the omission of the words "as appears upon the record," or "as appears by the record," or of the words "with force and arms," or of the words "against the peace," or for the insertion of the words "against the form of the statute," instead of the words

“against the form of the statute,” or vice versa, or for that any person mentioned in the indictment is designated by a name of office or other descriptive appellation, instead of his proper name, or for omitting to state the time at which the offence was committed in any case where time is not of the essence of the offence, or for stating the time imperfectly, or for stating the offence to have been committed on a day subsequent to the finding of the indictment or on an impossible day, or on a day that never happened, for want of a proper or perfect venue, or for want of a proper or formal conclusion, or for want of or imperfection in the addition of any defendant, or for want of the statement of the value or price of any matter or thing, or the amount of damage, or injury in any case where the value or price, or the amount of damage, or injury, is not of the essence of the offence.

SECTION 16. In any indictment for any felony or misdemeanor, wherein it shall be requisite to state the ownership of any property whatsoever, whether real or personal, which shall belong to or be in the possession of more than one person, whether such persons be partners in trade, joint tenants, partners or tenants in common, it shall be sufficient to name one of such persons and to state such property to belong to the person so named, and another or others as the case may be; and whenever in any indictment for any felony or misdemeanor it shall be necessary to mention for any purpose whatsoever any partners, joint tenants, parceners or tenants in common, it shall be sufficient to describe them in the manner aforesaid; and this provision shall be construed to extend to all joint stock companies and trustees.

SECTION 17. All property, real and personal, whereof any body corporate shall by law have the management, control, or custody, shall, for the purpose of any indictment or proceeding against any other person for any offence committed

on or in respect thereof, be deemed to be the property of such body corporate.

SECTION 18. In any indictment for murder or manslaughter or for being an accessory to any murder or manslaughter, it shall not be necessary to set forth the manner in which or the means by which the death of the deceased was caused, but it shall be sufficient in any indictment for murder to charge that the defendant did feloniously, willfully and of his malice aforethought, kill and murder the deceased ; and it shall be sufficient in any indictment for manslaughter to charge that the defendant did feloniously kill and slay the deceased ; and it shall be sufficient in any indictment against any accessory to any murder or manslaughter, to charge the principal with the murder or manslaughter (as the case may be) in the manner hereinbefore specified, and then to charge the defendant as an accessory in the manner heretofore used and accustomed.

SECTION 19. In any indictment for forging, altering, uttering or offering any instrument whatsoever, or for passing, negotiating, assigning or transferring, obtaining or attempting to obtain any property by false pretences, or for any offence against Chapter XXIII of the Penal Code, it shall be sufficient where it shall be necessary to allege an intent to defraud or injure to allege that the defendant did the act with intent to defraud or injure (as the case may be) without alleging an intent to defraud or injure any particular person, and in the case of obtaining or attempting to obtain property by false pretences, without alleging any ownership of the money or other thing of value. And on the trial of any of the offences in this section mentioned, it shall not be necessary to prove an intent on the part of the defendant to defraud or injure any particular person, but it shall be sufficient to prove that the defendant did the act charged



with an intent to defraud or injure (as the case may be).

SECTION 20. In any indictment for any offence committed after a previous conviction or convictions for any felony or misdemeanor, it shall be sufficient after charging the subsequent offence to state that the offender was at a certain time and place, or at certain times and places, convicted of felony or misdemeanor, and to state the substance and effect only, omitting the formal part of the indictment and conviction for the previous offence without otherwise describing the previous offence or offences.

SECTION 21. In every indictment whatsoever in which it shall be necessary to make any averment as to any money or valuable security, and in every indictment for embezzlement, fraudulent application or fraudulent disposition where the offence shall relate to any valuable security, it shall be sufficient to describe such money or valuable security simply as money, without specifying any particular coin or valuable security. And such allegation so far as regards the description of the property, shall in all cases be sustained by proof of any amount of coin, and in the cases of the offences hereinbefore in this section specially named of any valuable security, although the particular species of coin of which said amount was composed or the particular nature of the valuable security shall not be proved, and in the cases of the offences so specially named and also in the case of obtaining money or other property by false pretences, by proof that the offender embezzled, fraudulently applied or disposed of any amount or obtained any piece of coin or any valuable security or any portion of the value thereof respectively, although such piece of coin or valuable security (as the case may be) may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same or to any other person, and such part shall have been returned accordingly.

SECTION 22. It shall be lawful to insert several counts in the same indictment against the same person for any number of distinct acts of stealing, not exceeding three, which may have been committed by him against the same person within the space of six months from the first to the last of such acts, and to prosecute thereon for all or any of them.

SECTION 23. If any indictment for stealing or for any fraudulent purpose, destroying, cancelling, obliterating or concealing the whole or any part of any document of title to lands, it shall be sufficient to allege such document to be or to contain evidence of the title or of part of the title of the person or of some one of the persons having an interest whether vested or contingent, legal or equitable, in the real estate to which the same relates, and to mention such real estate or some part thereof.

SECTION 24. In any indictment for any of the following offences it shall not be necessary to allege that the instrument, document, article or thing in respect of which the offence is committed is the property of any person (that is to say), the offence of stealing any testamentary instrument; the offence of stealing any original document of any court; the offence of stealing or of ripping, cutting, severing or breaking with intent to steal anything made of metal fixed in any square or street, or in any place dedicated to public use or ornament.

SECTION 25. For preventing difficulties in the prosecution of offenders in any case of embezzlement or fraudulent application or disposition by any person, it shall be lawful to charge in the indictment and proceed against the offender for any number of distinct acts of embezzlement, or of fraudulent application or disposition, not exceeding three, which may have been committed by him against the same person within the space of six months from the first to the last of such acts.

SECTION 26. In every case of larceny committed against His Majesty, or embezzlement, fraudulent application or disposition committed against His Majesty, of any chattel, money, or valuable security, it shall be lawful in the order of committal by the justice before whom the offender shall be charged, and in the indictment to be preferred against the offender, to lay the property of any such chattel, money, or valuable security as aforesaid in His Majesty.

SECTION 27. In every case of stealing any chattel let to be used in or with any house or lodging, it shall be lawful to prefer an indictment in the common form as for larceny, and in every case of stealing any fixture so let as aforesaid to prefer an indictment in the same form as if the offender were not a tenant or lodger, and in either case to lay the property in the owner or person letting to hire.

SECTION 28. In any indictment containing a charge of feloniously stealing any property it shall be lawful to add a count or several counts for feloniously receiving the same or any part or parts thereof, knowing the same to have been stolen, and in any indictment for feloniously receiving any property knowing it to have been stolen, it shall be lawful to add a count for feloniously stealing the same.

SECTION 29. In any indictment for forging, altering, offering, uttering, disposing of, or for stealing, embezzling, extorting, converting, disposing of, destroying or concealing, or for obtaining by false pretences any instrument, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known or by the purport thereof, without setting out any copy or fac-simile thereof or otherwise describing the same or the value thereof.

SECTION 30. In all other cases whenever it shall be necessary to make any averment in any indictment as to any

instrument, whether the same consists wholly or in part of writing, print or figures, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known, or by the purport thereof, without setting out any copy or fac-simile of the whole or any part thereof.

SECTION 31. In any indictment for perjury or unlawfully, willfully, falsely, fraudulently, deceitfully, maliciously or corruptly, taking, making, signing or subscribing any oath affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate or other writing, it shall be sufficient to set forth the substance of the offence charged upon the defendant, and by what court or before whom the oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate or other writing was taken, made, signed or subscribed, without setting forth the bill, answer, affirmation, information, declaration, or any part of any proceeding, either in law or in equity or other jurisdiction, and without setting forth the commission or authority of the court or the person before whom such offence was committed.

SECTION 32. In every indictment for subornation of perjury or of corrupt bargaining or contracting with any person to commit willful and corrupt perjury, or for inciting, causing or procuring any person unlawfully, willfully, falsely, fraudulently, deceitfully, maliciously, corruptly, to take, make, sign or subscribe any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate or other writing, it shall be sufficient wherever such perjury or other offence aforesaid shall have been actually committed, to allege the offence of the person who actually committed such perjury or other offence in the manner hereinbefore mentioned, and then to allege that the defendant unlawfully, willfully, and corruptly did cause and procure the said person, the said offence, in manner and form aforesaid to do

and commit; and wherever such perjury or other offence aforesaid shall not have been actually committed, it shall be sufficient to set forth the substance of the offence charged upon the defendant without setting forth or averring any of the matters or things hereinbefore rendered unnecessary to be set forth or averred in the case of willful and corrupt perjury.

#### VI.—OBJECTIONS TO INDICTMENTS, HOW TAKEN, POWER OF AMENDMENT.

SECTION 33. Every objection to any indictment for any defect apparent on the face thereof, shall be taken by demurrer or motion to quash such indictment before the accused has pleaded and not afterwards; and every court before which any such objection shall be taken for any such defect may, if it be thought necessary, cause the indictment to be forthwith amended in such particular by some officer of the court or other person, and thereupon the trial shall proceed as if no such defect had appeared; and no motion in arrest of judgment shall be allowed for any defect in any indictment which might have been taken advantage of by demurrer or motion to quash as aforesaid.

#### VII.—POSTPONEMENT OF TRIAL, &c.

SECTION 34. No person prosecuted shall be entitled as of right to traverse or postpone the trial of any indictment preferred against him, or to have time to plead or demur to any such indictment allowed him. Provided always, that if the court before which any person is indicted shall, upon the application of such person or otherwise be of opinion that he ought to be allowed a further time to plead, or demur, or to prepare for his defence, or otherwise, such court may grant such further time to plead, or demur, or may adjourn the receiving or taking of the plea, or demurrer, and the trial (or

as the case may be) the trial of such person to the next or any subsequent term of the court, and upon such terms as to bail or otherwise as to the court shall seem meet.

#### VIII.—COURT FEES NOT PAYABLE BY DEFENDANTS.

SECTION 35. It shall not be lawful to take, demand, or receive any court fees for the issuing of any process for or on behalf of any person charged with, or indicted for, any felony or as accessory thereto, or with or for any misdemeanor in any court of criminal jurisdiction; nor shall it be lawful to take, demand or receive any fees from any such person for taking any recognizance of bail, or issuing any writ of habeas corpus, or recording any appearance, or plea to any information, or for discharging any recognizance taken from any such person, or surety or sureties for them, but all costs may be ordered to be paid by the person charged and convicted as part of the judgment.

#### IX.—ARRAIGNMENT, PLEA, &c.

SECTION 36. If any person being arraigned upon any indictment for any offence shall plead thereto a plea of "not guilty," he shall by such plea without any further form, be deemed to have put himself upon the country for trial, and the court shall in the usual manner order a jury for the trial of such person accordingly.

SECTION 37. If any person being arraigned upon or charged with any offence, shall stand mute of malice, or will not answer directly to the indictment in every such case, it shall be lawful for the court (if it shall so think fit) to order the proper officer to enter a plea of "not guilty" on behalf of such person, and the plea so entered shall have the same force and effect as if such person had actually pleaded the same.

SECTION 38. If any person indicted for any offence shall

be insane, and shall upon arraignment be found so to be by a jury lawfully impaneled for that purpose, so that such person cannot be tried upon such indictment, or if upon the trial of any person so indicted such person shall appear to the jury charged with such indictment to be insane, it shall be lawful for the court before whom any such person shall be brought to be arraigned or tried as aforesaid, to direct such finding to be recorded, and thereupon to order such person to be kept in strict custody until His Majesty's pleasure shall be known; and if any person charged with any offence shall be brought before any court to be discharged for want of prosecution, and such person shall appear to be insane, it shall be lawful for such court to order a jury to be impaneled to try the sanity of such person; and if the jury so impaneled shall find such person to be insane, it shall be lawful for the court to order such person to be kept in strict custody in such place and in such manner as to such court shall seem fit, until His Majesty's pleasure shall be known; and in all cases of insanity so found, it shall be lawful for His Majesty by and with the advice of his Cabinet to give such order for the safe custody of such person so found to be insane during His Majesty's pleasure, in such place and in such manner as to him by and with such advice as aforesaid shall seem fit.

SECTION 39. No indictment shall be abated by reason of any dilatory plea of misnomer or of want of addition, or of wrong addition of the party offering such plea, if the court shall be satisfied by affidavit or otherwise of the truth of such plea, but in such case the court shall forthwith cause the indictment to be amended according to the truth, and shall call upon such party to plead thereto and shall proceed as if no such dilatory plea had been pleaded.

SECTION 40. In any plea of autrefois convict or autrefois acquit, it shall be sufficient for the defendant to state that he has been lawfully convicted or acquitted (as the case may be) of the said offence charged in the indictment.

SECTION 41. The proceedings upon any indictment for committing any offence after a previous conviction or convictions, shall be as follows, (that is to say): the offender shall in the first instance be arraigned upon so much only of the indictment as charges the subsequent offence; and if he plead not guilty, or if the court order a plea of not guilty to be entered on his behalf, the jury shall be charged in the first instance to enquire concerning such subsequent offence only; and if they find him guilty or if on arraignment he plead guilty, he shall then and not before be asked whether he had been previously convicted as alleged in the indictment, and if he answer that he had been so previously convicted, the court may proceed to sentence him accordingly; but if he deny that he had been so previously convicted or stand mute of malice, or will not answer directly to such question, the jury so in the first instance charged as aforesaid, or (if by reason of a plea of guilty in the first instance no such jury has been so charged) then a jury in like manner as in other cases shall be charged to enquire concerning such previous conviction or convictions; and in the case of a jury so charged in the first instance, it shall not be necessary to swear the jury again, but the oath already taken by them shall for all purposes be deemed to extend to such last mentioned enquiry. Provided, that if upon the trial of any person for any such subsequent offence such person shall give evidence of his good character, it shall be lawful for the prosecutor in answer thereto to give evidence of the conviction of such person for the previous offence or offences before such verdict of guilty shall be returned; and the jury shall enquire concerning such previous conviction or convictions at the same time that they enquire concerning such subsequent offence.

SECTION 42. Any person indicted for a crime punishable with death shall, on demand upon the clerk by himself or his



counsel, have a list of the jurors returned delivered to him, and shall also have process to summon such witnesses as are necessary for his defence.

SECTION 43. In all cases of felony in which the party accused is unable to employ counsel for his defence, the court may assign him counsel from among the licensed practitioners, who shall use every lawful exertion in his behalf without fee or reward, upon pain of contempt to the court.

SECTION 44. Every native Hawaiian arraigned upon indictment for any offence shall, on demand upon the Attorney General, be furnished with a copy of the indictment in the Hawaiian language.

SECTION 45. The prosecuting attorney shall open the case, and first introduce his witnesses and proofs, and after the evidence for the defence has been presented, and the accused or his counsel has summed up and closed his case, the prosecuting attorney shall have the right to sum up the entire evidence and close the debate.

#### X.—DEFENCE.

SECTION 46. All persons tried for any offence shall be admitted after the close of the case for the prosecution to make full answer and defence thereto by counsel or attorney.

#### XI.—VARIANCES AND AMENDMENT.

SECTION 47. If on the trial of any indictment there shall appear to be any variance between the statement in such indictment and the evidence offered in proof thereof, it shall and may be lawful for the court before which the trial shall be had, if such court shall consider such variance not material to the merits of the case, and that the defendant cannot be prejudiced thereby in his defence on such merits, to order such indictment to be amended according to the

proof in such part of the indictment and in such manner as such court shall think fit, on such terms as to postponing the trial to be had before the same or another jury as such court shall think reasonable; and after any such amendment the trial shall proceed, whenever the same shall be proceeded with, in the same manner in all respects and with the same consequences, both with respect to the liability of witnesses to be informed against for perjury and otherwise, as if no variance had occurred; and in all such cases where the trial shall be so postponed, it shall be lawful for the court to discharge the jury sworn from giving any verdict, and to cause to be endorsed on the indictment the words "jury discharged from giving a verdict." Provided, that in all such cases where the trial shall be so postponed as aforesaid, it shall be lawful for such court to enlarge the bail of the defendant and the surety or sureties (if any) accordingly; in such cases the witnesses who may have been summoned to give evidence, shall be bound to attend to give evidence respectively, and the defendant shall be found to attend to be tried at the time and place to which said trial shall be postponed without entering into any fresh bail bond, or being served with fresh process for that purpose, in such and the same manner as if the defendant originally bound and the witnesses summoned to appear and give evidence at the time and place to which such trial shall have been postponed. Provided also, that where any such trial shall be to be had before another jury, the Crown and the defendant shall respectively be entitled to the same challenges as they were respectively entitled to before the first jury was impaneled.

## XII.—VERDICT.

SECTION 48. In cases where it shall be given in evidence upon the trial of any person charged with any offence, that such person was insane at the time of the commission of such

offence, and such person shall be acquitted, the jury shall be required to find specially whether such person was insane at the time of the commission of such offence, and to declare whether such person was acquitted by them on account of such insanity, and if they shall find that said person was insane at the time of the committing of such offence, the court before whom such trial shall be had shall order such person to be kept in strict custody in such place and in such manner as to the court shall seem fit, until His Majesty's pleasure shall be known; and it shall thereupon be lawful for His Majesty, by and with the advice of his Cabinet Council, to give such order for the safe custody of such person so found to be insane during his pleasure, in such place and in such manner as to him shall seem fit.

SECTION 49. If on the trial of any person charged with felony or misdemeanor, it shall appear to the jury upon the evidence that the defendant did not complete the offence charged, but that he was guilty only of an attempt to commit the same, such person shall not by reason thereof be entitled to be acquitted, but the jury may return as their verdict that the defendant is not guilty of the felony or misdemeanor charged, but is guilty of an attempt to commit the same, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for attempting to commit the particular felony or misdemeanor charged in the indictment, and no person so tried as herein lastly mentioned shall be liable to be afterwards prosecuted for an attempt to commit the felony or misdemeanor for which he was so tried.

SECTION 50. If upon the trial of any person for any misdemeanor it shall appear that the facts given in evidence amount in law to a felony, such person shall not by reason thereof be entitled to be acquitted of such misdemeanor, and no person tried for such misdemeanor shall be liable to be

afterwards prosecuted for felony on the same facts, unless the court before which said trial may be had shall think fit in its discretion to discharge the jury from giving any verdict upon such trial, and to direct such person to be proceeded against for felony, in which case such person may be dealt with in all respects as if he had not been put upon his trial for such misdemeanor.

SECTION 51. Under an indictment for robbery, larceny, or any other offence of more than one degree, the jury may, when the evidence will not warrant a verdict of guilty in the degree for which the prisoner is indicted, return a verdict for any lesser degree of the same offence.

SECTION 52. If on the trial of any person charged with the offence of rape or sodomy, or with the offence of ravishing, carnally abusing any girl under the age of ten years, or with having sexual or carnal intercourse with any female of this kingdom under the age of fourteen years, the jury shall not be satisfied that he is guilty thereof, but shall be satisfied that he is guilty of an assault with intent to commit the same, then the jury may return as their verdict that he is not guilty of the offence so charged, and may find him guilty of an assault with intent to commit the same.

SECTION 53. If upon the trial of any person upon any indictment for robbery it shall appear to the jury that the defendant did not commit the crime of robbery, but that he did commit an assault with intent to rob, the defendant shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is guilty of an assault with intent to rob; and thereupon the defendant shall be liable to be punished in the same manner as if he had been convicted upon an indictment for feloniously assaulting with intent to rob; and no person so tried as before lastly mentioned shall be liable to be after-

wards prosecuted for an assault with intent to commit the robbery for which he was so tried.

SECTION 54. If upon the trial of any person indicted for embezzlement, it shall be proved that he took the property in question in any such manner as to amount in law to larceny, he shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that such person is not guilty of embezzlement, but is guilty of larceny, and in either degree, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such larceny in the degree found. And if upon the trial of any person informed against for larceny it shall be proved that he took the property in question in any such manner as to amount in law to embezzlement, he shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that such person is not guilty of larceny, but is guilty of embezzlement and the charge thereof, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such embezzlement in the degree found, or larceny as aforesaid, shall be liable to be afterwards prosecuted for larceny or embezzlement upon the same facts.

SECTION 55. If upon the trial of any person indicted for obtaining property by false pretences, it shall be proved that he obtained the property in question in any such manner as to amount in law to larceny, he shall not by reason thereof be entitled to be acquitted, and no person tried for such misdemeanor shall be liable to be afterwards prosecuted for larceny upon the same facts.

SECTION 56. If upon the trial of any indictment for larceny it shall appear that the property alleged in such indictment to have been stolen at one time was taken at different times, the prosecutor shall not by reason thereof be

required to elect upon which taking he will proceed, unless it shall appear that there were more than three takings, or that more than the space of six months elapsed between the first and the last of such takings, and in either of such last mentioned cases, the prosecutor shall be required to elect to proceed for such number of takings not exceeding three as appear to have taken place within the period of six months from the first to the last of such takings.

SECTION 57. If upon the trial of two or more persons indicted for jointly receiving any property, it shall be proved that one or more of such persons separately received any part or parts of such property, it shall be lawful for the jury to convict upon such indictment such of the said persons as shall be proved to have received any part or parts of such property.

SECTION 58. Where any indictment containing two or more counts both for feloniously stealing and of receiving shall have been preferred against any person, the prosecutor shall not be put to his election, but it shall be lawful for the jury who shall try the same to find a verdict of guilty either of stealing the property or of receiving the same or any part or parts thereof knowing the same to have been stolen; and if such indictment shall have been preferred against two or more persons, it shall be lawful for the jury who shall try the same to find all or any of the said persons guilty either of stealing the property or of receiving the same or any part or parts thereof knowing the same to have been stolen, or to find one or more of the said persons guilty of stealing the property, and the other or others of them guilty of receiving the same or any part or parts thereof knowing the same to have been stolen.

SECTION 59. If upon the trial of any person for being concerned in a riot or unlawful assembly as described in Section 10 of Chapter 38 of the Penal Code, the jury shall

not be satisfied that such person is guilty thereof, but shall be satisfied that he is guilty of any misdemeanor mentioned in the section next proceeding Section 10, then the jury may return as their verdict that he is not guilty of the offence charged, but is guilty of such misdemeanor, and he may be punished accordingly.

SECTION 60. Under an indictment for murder or manslaughter, the jury may return a verdict of manslaughter in either degree or for assault and battery, as the facts proved will warrant.

SECTION 61. Where upon the trial of any person charged with the offence of adultery, sufficient proof of marriage shall not be adduced, such person shall not therefore be acquitted, but the court or jury before whom such party is charged may, if the facts proved will so warrant, find the accused guilty of fornication, and such accused person shall thereupon be punished accordingly.

## XII.—EVIDENCE IN CERTAIN CASES.

SECTION 62. Where any person shall be proceeded against before any court of criminal jurisdiction for a subsequent offence in either case committed after any previous summary conviction or convictions, a copy of any such conviction certified by the proper officer of the court to which such summary conviction shall have been returned or proved to be a true copy, shall be sufficient evidence to prove a conviction of the former offence and the conviction shall be presumed to have been unappealed against until the contrary be shown.

SECTION 63. All persons under trial shall be entitled at the time of their trial to inspect without fee or reward all depositions which have been taken against them, and delivered in manner by law required to the proper officer of the court

before which such trial shall be had, or copies of such depositions.

SECTION 64. Depositions taken in the preliminary or other investigation of any charge against any person, may be read as evidence in the prosecution of the same or any other offence whatever, upon the like proof and in the same manner in all respects as they may according to the law now in force be read in the prosecution of the offence with which said person was charged when such depositions were taken.

SECTION 65. Where upon the trial of any person charged with any offence against Chapter XXXI of the Penal Code, it shall be necessary to prove that any coin produced in evidence against such person is false or counterfeit, by the evidence of any credible witness.

#### XIII.—AMENDMENTS NOT TO PREJUDICE AFTER VERDICT.

SECTION 66. Every verdict and judgment which shall be given after the making of any amendment under this Act, shall be of the same force and effect in all respects as if the indictment had originally been in the same form in which it was after such amendment was made.

SECTION 67. If it shall become necessary at any time for any purpose whatsoever to draw up a formal record in any case where any amendment shall have been made under this Act, such record shall be drawn up in the form in which the indictment was after such amendment was made without taking any notice of the fact of such amendment having been made.

#### XIV.—OF JUDGMENT AND EXECUTION.

SECTION 68. The verdict of the jury or the decision of the court, as the case may be, shall, subject to arrest of judgment, found the sentence to be passed in open court, by either of the Justices, pursuant to the penalties of the law charged and



found to have been violated, subject to the executive clemency, or a motion in arrest of execution for cause.

SECTION 69. Any Judge of a Court of Record may, for cause shown to his satisfaction, respite any convicted criminal for any length of time, sufficient for the purposes of mercy, or not to work injury to innocent third parties.

SECTION 70. No person at the time insane, and no woman at the time quick with child, shall suffer capital punishment; neither shall any child suffer such punishment who has not evinced a knowledge of the distinction between right and wrong.

SECTION 71. In all cases where the law of this Kingdom awards the punishment of death, there shall always intervene at least forty-eight hours between the conviction and the sentence; and at least fourteen days between the sentence and the execution.

SECTION 72. The Marshal, or some one deputed by him, shall inflict the punishment of death, by hanging the criminal by the neck until dead, when the body shall be disposed of pursuant to the direction of the court. No capital punishment shall be so inflicted until the warrant for that purpose shall be signed by the King; nor shall such punishment be inflicted after His Majesty's pardon.

SECTION 73. In all criminal cases where the punishment is less than capital, the court before whom the conviction is had shall proceed as soon thereafter as may be to pass sentence according to law, which sentence shall be recorded by the clerk, and certified to the Marshal or his deputy in the order for imprisonment or other punishment, as the case may be.

#### XV.—REPEAL OF FORMER LAWS.

SECTION 74. The following laws and parts of laws shall be and the same are hereby repealed, Sections 1168 to 1184 of

the Civil Code, both inclusive : An Act entitled "An Act to amend Sections 1168 and 1169 of the Civil Code," approved on the 24th day of May, A. D. 1866 ; an Act entitled "An Act to amend Section 1183 of the Civil Code," approved on the 13th day of May, A. D. 1868, and all other laws inconsistent with the provisions of this Act.

Approved this 19th day of September, A. D. 1876.

KALAKAUA R.

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## CHAPTER XLI.

### AN ACT

#### TO REGULATE THE CURRENCY.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. From and after the first day of March, in the year of our Lord one thousand eight hundred and seventy-seven, the gold coins of the United States of America shall be the standard and a legal tender in this Kingdom in all payments of debts, at their nominal value.

SECTION 2. Be it further enacted, that the silver coins of the United States shall be a legal tender at their nominal value in payment for all debts within this Kingdom, for any amount not exceeding fifty dollars, and for debts between fifty and one hundred dollars, fifty dollars may be paid in silver coins and the remainder shall be paid in gold coins as aforesaid.

SECTION 3. And be it further enacted, that for all debts of one hundred dollars in amount not exceeding one thousand dollars, the legal tender for such debts shall be twenty-five

per cent. thereof in silver coin of the United States as aforesaid, and seventy-five per cent. in gold coin of the United States as aforesaid.

SECTION 4. And be it further enacted, that for all debts exceeding one thousand dollars, for the first thousand thereof the payments may be made as is provided in the preceding sections, and for the remaining sum fifteen per cent. may be paid in silver coins as aforesaid, and the remainder shall be paid in gold coins as aforesaid.

SECTION 5. And be it further enacted, that the gold and silver coins other than those of the United States bearing the legalized impress of any Sovereign State, shall also be receivable in payment of Government dues, duties and taxes, at the exchequer, and in tender or payment of debts contracted by private individuals and payable in this Kingdom, at their value as fixed by the King in Privy Council and published by the Minister of Finance.

SECTION 6. And be it further enacted, that silver coins to the value of twenty-five cents or less shall be legal tender for all payments not exceeding ten dollars; but in all other cases whenever silver shall be paid in accordance with the preceding sections, coins of twenty-five cents and less may be paid at the rate of fifteen dollars to every hundred dollars so to be paid in silver.

SECTION 7. There shall be levied, collected and paid upon all silver coins imported into this Kingdom from any country with which His Majesty has not any treaty to the contrary, a duty of ten per cent. ad valorem. Provided, that this section shall not come into operation until a proclamation to that effect has been issued by His Majesty by and with the advice and consent of a majority of His Privy Council, at a duly convened meeting thereof.

SECTION 8. And be it further enacted, that from and after

the date of the passage of this Act, it shall be the duty of the Minister of Finance to require that all duties paid on imports shall be paid in gold coins of the United States, or its equivalent.

SECTION 9. And be it further enacted, that from and after the first of March, eighteen hundred and seventy-seven, the interest on all Government Bonds shall be paid in the gold coin of the United States, or its equivalent, whensoever the interest on any one bond shall be or shall exceed five dollars, and when less than five dollars, shall be paid in silver coin as aforesaid.

SECTION 10. And be it further enacted, that from and after the first of March, eighteen hundred and seventy-seven, an Act entitled "An Act to regulate the currency," (Chapter XXVII of the Session Laws of 1872, approved the 29th day of July, 1872), shall be utterly void and of no effect, as well as all other Acts or parts of Acts inconsistent with and contrary to the provisions of this Act.

Approved this 19th day of September, A. D. 1876.

KALAKAUA R.

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## CHAPTER XLII.

### AN ACT

TO AMEND SECTION 17 OF CHAPTER 41 OF THE PENAL CODE.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. That Section 17 of Chapter 41 of the Penal Code be, and the same is hereby amended by striking out the word "one" in the third line, and inserting in the place

thereof the words "two hundred and fifty," and by striking out the words "two hundred and fifty" in the fourth line, and inserting the words "five hundred" in the place thereof, so that the said section shall read as follows :

"Section 17. Before granting such wholesale license to vend spirituous liquors, the applicant shall pay for the use of the Royal Exchequer two hundred and fifty dollars, and give a bond to the Minister of the Interior in the penalty of five hundred dollars, with at least one sufficient surety to be approved by said Minister."

SECTION 2. This Act shall become a law from and after the date of its approval.

Approved this 25th day of September, A. D. 1876.

KALAKAUA R.

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## CHAPTER XLIII.

### AN ACT

#### TO INDEMNIFY THE MINISTER OF FINANCE.

WHEREAS, it appears by the Report of the Minister of Finance that the sum of three thousand nine hundred and ninety-seven dollars and sixty-four cents has been expended as follows: "For funeral of Lunalilo, etc., etc., two hundred and thirty-six dollars and three cents," and for "expenses of Treaty Commissioners to Washington, three thousand seven hundred and sixty-one dollars and sixty-one cents;" and

WHEREAS, the Minister of Finance has requested a bill indemnifying those legally responsible, and discharging them from further liability on account of this expenditure; now, therefore,

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. That the Minister of Finance and all others legally responsible, are hereby indemnified and discharged from all liability on account of the expenditure detailed in the above preamble, and that the books of the Treasury be adjusted accordingly.

Approved this 25th day of September, A. D. 1876.

KALAKAUA R.

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## CHAPTER XLIV.

### AN ACT

TO REQUIRE THE SALES AND LEASES OF GOVERNMENT LANDS  
TO BE MADE AT PUBLIC AUCTION.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. All sales or leases of government land shall be made at public auction, after not less than thirty days notice by advertisement in two or more newspapers published in Honolulu in both the Hawaiian and English languages, excepting lands and portions of land of less than three hundred dollars in value, and no large tract of land valued at over three hundred dollars shall be divided into small portions previous to the sale thereof. All such sales shall be made at the door of the Government House at Honolulu, and shall be cried by the Minister of Interior or by one of his clerks under his direction, who shall perform this service without extra compensation. Notice of sale herein above required to be made, shall contain a full

description of the land to be sold, as to locality, area, and quality, with a reference to the survey, which shall in all cases be kept in the office of the Minister, open to inspection of any one who may desire to examine the same. In case application has been made for purchase of a government land, and a price has been offered for same, the price offered shall be published in the notice of sale, as the upset price for which the land shall be offered at public auction.

SECTION 2. The provisions of this Act shall not extend or apply to cases where the government shall by quit claim, or otherwise, dispose of its rights in any land by way of compromise or equitable settlements of the rights of claimants, nor to cases of exchange, or sales of government lands in return for parcels of land required for roads, sites of government buildings, or other government purposes.

Approved this 25th day of September, A. D. 1876.

KALAKAUA R.

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## CHAPTER XLV.

### AN ACT

TO AMEND SECTION 1420 OF THE CIVIL CODE AS AMENDED BY "AN ACT ENTITLED AN ACT TO AMEND THE LAW IN RELATION TO MASTER AND SERVANT," APPROVED ON THE 5TH DAY OF JULY, 1860.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. That Section 1420 of the Civil Code as amended by an Act entitled "An Act to amend the law in relation to Master and Servant," approved on the 5th day of July, 1860, be further amended by striking out all the words after

the word "justice" in the fourth line of the said amendment and inserting in place thereof the following words: "May fine such offender not exceeding five dollars for the first offence, and for every subsequent offence thereafter not exceeding ten dollars, and in default of payment thereof such offender shall be imprisoned at hard labor until such fine with costs is paid; and at the expiration of such imprisonment such justice shall order such offender to be restored to his master to serve for the remainder of such original term of service."

SECTION 2. All laws and parts of laws inconsistent herewith are hereby repealed.

Approved this 25th day of September, A. D. 1876.

KALAKAUA R.

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## CHAPTER XLVI.

### AN ACT

TO AMEND SECTIONS 1 AND 2 OF AN ACT ENTITLED "AN ACT FOR THE PROTECTION OF PARTIES TO CONTRACTS AUTHORIZED BY SECTION 1417 OF THE CIVIL CODE," APPROVED ON THE 29TH OF JULY, A. D. 1872.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. That Section 1 of an Act entitled "An Act for the protection of parties to contracts authorized by Section 1417 of the Civil Code," approved on the 29th day of July, A. D. 1872, be; and the same is hereby amended so as to read as follows:

"Section 1. Every contract for service authorized by Sec-



tion 1417 of the Civil Code, shall, in order to its validity, be acknowledged by the master or his duly empowered agent, and the servant, before the agent to take acknowledgments of contracts, as hereinafter provided, and the certificate of acknowledgment shall be substantially as follows :

Island of ..... }  
 Hawaiian Islands, } s. s.

On this.....day of.....A. D.....personally appeared before me .....master, and.....servant, known to me (or satisfactorily proved to me by the oath of A. B.), to be the persons executing the above contract, and the same having been by me read and explained to them, they severally acknowledged that they understood the same and that they had executed the same voluntarily and upon the terms and conditions therein set forth.”

SECTION 2. That Section 2 of the said Act be, and the same is hereby amended so as to read as follows :

“Section 2. In order to carry out the provisions of this Act, the Minister of the Interior is hereby authorized to appoint not more than two agents in each elective district of this kingdom, who shall have the power to take acknowledgments to the contracts authorized by Section 1417 of the Civil Code ; provided, however, that such agent shall be authorized to appoint deputies during their temporary absence from their districts, and the deputies so appointed shall be empowered to perform all the duties of the said agents as prescribed by this Act ; and provided further, that nothing herein contained shall authorize the appointment of any judge to such agency.”

SECTION 3. All laws or parts of laws in contravention herewith are hereby repealed.

Approved this 25th day of September, A. D. 1876.

KALAKAUA. R.

## CHAPTER XLVII.

## AN ACT

TO PROVIDE FOR THE NUMBER OF HOURS TO CONSTITUTE A DAY'S LABOR WHERE NOT SPECIFIED BY CONTRACT.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

In all contracts for service under Section 1417 of the Civil Code, where the number of hours constituting a day's labor shall not be specified, the length of a day's labor shall be held not to exceed nine hours; for all labor in excess of such time the laborers shall be entitled to compensation at not less than the rate of wages agreed upon in the contract.

Approved this 25th day of September, A. D. 1876.

KALAKAUA R.

## CHAPTER XLVIII.

## AN ACT

TO REPEAL AN ACT ENTITLED "AN ACT TO REPEAL AN ACT ENTITLED AN ACT TO PERMIT DIVORCED PERSONS TO MARRY AGAIN, APPROVED MAY 24TH, A. D. 1866, AND TO RE-ENACT SECTION 1334 OF THE CIVIL CODE WITH AMENDMENT," APPROVED THE 8TH DAY OF JULY, 1870, AND TO RE-ENACT THE SAID ACT APPROVED ON THE 24TH DAY OF MAY, A. D. 1866.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. The Act entitled "An Act to repeal an Act" entitled "An Act to permit divorced persons to marry again. approved May 24th, A. D. 1866, and to re-enact Section 1334

of the Civil Code with amendment" approved the 8th day of July, A. D. 1870, shall be, and the same is hereby repealed.

SECTION 2. The Act entitled "An Act to permit divorced persons to marry again," approved May 24th, A. D. 1866, is hereby re-enacted and is declared to be in full force and effect, in like manner as the same was previous to the 8th day of July, A. D. 1870.

Approved this 25th day of September, A. D. 1876.

KALAKAUA R.

## CHAPTER XLIX.

### AN ACT

TO AMEND SECTION 1106 OF THE CIVIL CODE.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. Section 1106 of the Civil Code shall be, and the same is hereby amended by adding thereto the following words:

Provided that in all cases where the defendant is sued as the maker, drawer, acceptor or endorser of any banker's cheque, promissory note, bill of exchange, or other negotiable security, he shall not be allowed to file an answer unless he shall file therewith an affidavit made by himself or by some person cognizant of the facts, on his behalf, that the defendant has a good defence to the action on the merits, and stating some substantial ground of defence to the action, if such action be commenced within six months after the dishonor of the instrument on which the action is brought.

Approved this 25th day of September, A. D. 1876.

KALAKAUA R.

## CHAPTER L.

## AN ACT

TO AMEND SECTION 1144 OF THE CIVIL CODE, BY ADDING A NEW  
SUB-SECTION TO BE NUMBERED 8.

*Be it Enacted by the King and the Legislative Assembly of the  
Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. Section 1144 of the Civil Code shall be, and the same is hereby amended by adding thereto a new sub-section in the words following, to be numbered 8 :

8. Every holder of a banker's cheque, promissory note, bill of exchange, or other negotiable security, may join as defendants in any action for the recovery of the amount secured by any such instrument all or any of the antecedent parties to the same, whether maker, drawer, acceptor, or endorser.

Approved this 25th day of September, A. D. 1876.

KALAKAUA R.

## CHAPTER LI.

## AN ACT

TO PROVIDE FOR THE DEPOSIT IN THE OFFICE OF THE MINISTER OF  
THE INTERIOR BY THE COMMISSIONERS OF BOUNDARIES OF COPIES  
OF ALL CERTIFICATES OF BOUNDARIES ISSUED BY THEM.

WHEREAS, it is expedient that copies of all certificates of boundaries issued by the Commissioners of Boundaries should be deposited in the office of the Minister of the Interior for reference ; therefore,

*Be it Enacted by the King and the Legislative Assembly of the  
Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. It shall be the duty of the several Commission-

ers of Boundaries to deposit in the office of the Minister of the Interior a certified copy of all certificates of boundaries which may hereafter be issued by them, within thirty days after the issuing thereof, and also certified copies of all such certificates which have heretofore been issued by them or their predecessors in office, within six months from the date of the approval of this Act.

SECTION 2. Such Commissioners shall be entitled to and shall be paid by the said Minister, twenty-five cents for every one hundred words comprised in each of such copies.

SECTION 3. This Act shall become a law from and after the date of its passage.

Approved this 25th day of September, A. D. 1876.

KALAKAUA R.

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## CHAPTER LII.

### AN ACT

TO AMEND SECTION 3, AND REPEAL SECTION 9, OF CHAPTER 48  
OF THE PENAL CODE.

*Be it Enacted by the King and the Legislative Assembly of the  
Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. Section 3 of Chapter 48 of the Penal Code is hereby amended by striking out the word "crime," the last word of said section, and substituting in place thereof the words "criminal offence."

SECTION 2. Section 9 of Chapter 48 of the Penal Code is hereby repealed.

Approved this 25th day of September, A. D. 1876.

KALAKAUA R.

## CHAPTER LIII.

## AN ACT

TO AID THE DEVELOPMENT OF THE RESOURCES OF THE KINGDOM.

WHEREAS, there are large tracts of land in this Kingdom adapted for the cultivation of sugar cane, rice, coffee and other crops, which are now inaccessible for the want of suitable landings and facilities for the shipment of produce, and roads leading from such landings thereto and throughout the same; and

WHEREAS, there are also other tracts of land in this Kingdom, upon which sugar cane and other products could be raised if water should be brought on the same for the purpose of irrigating them, and for furnishing power for mills and for other uses in connection with the cultivating the soil and preparing its products for market; and

WHEREAS, it is advisable that the government should aid in encouraging and developing the agricultural resources of the Kingdom; therefore,

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. That His Majesty the King in Privy Council appoint a commission consisting of three suitable persons, whose duty it shall be to visit any and all districts of the various islands of this group which may be thought to possess agricultural resources hitherto undeveloped or but partially developed, and after a careful examination to report to the Minister of Interior in writing an estimate of the quality of land in any one locality capable of being cultivated to advantage, the nature of the crops which can be raised thereon, and the feasibility of constructing landings therefor, or other facilities for the shipment of produce, or roads

leading to the same, or water courses thereon for the purpose of irrigation, or for furnishing power for mills, or whatever other improvements may to them appear feasible and necessary in order to the development of the agricultural resources of the locality visited; and the said commission shall prepare or cause to be prepared careful estimates of the probable cost of such improvements, sufficient surveys and other recommendations which to them shall seem advisable to report.

SECTION 2. In order for the proper carrying out of the provisions of the preceding section, the said commissioners shall receive the reasonable assistance when required, of the Superintendent of Public Works, the Surveyor General and his assistants, and the Harbor Master of Honolulu, in preparing said estimates, surveys and reports, and who shall serve without further compensation.

SECTION 3. Upon the coming in of any such report the Minister of Interior shall present the same for the consideration of His Majesty in Privy Council, and if the same be approved of, the said Minister shall proceed to construct the landings, laying of buoys, roads, water courses or other improvements, either according to the original report or as modified in Privy Council, and the said Minister is hereby authorized to use whatever prison labor is available in constructing such improvements or to contract for their construction as may to him seem advisable. Provided, however, that no such improvement or undertaking shall be commenced until a written request therefor signed by three or more land-holders in such district shall have been filed with the Minister of Interior.

SECTION 4. In order to provide means for the carrying out the object of this Act, the Minister of Finance is hereby authorized from time to time, as the various improvements shall progress, to issue bonds with coupons attached, to an

amount not to exceed in the aggregate two hundred thousand dollars, said bonds to bear interest not exceeding nine per cent. per annum, payable semi-annually; said bonds shall be signed by the Minister of Finance and countersigned by the Registrar of Public Accounts, and to have endorsed on them these words, "Public Improvement Bonds, Act of 1876;" and such bonds shall be made payable at such time as shall be specified on their face, but not later than twenty-five years from the day of their date.

SECTION 5. The Minister of Interior is hereby authorized and empowered to enter upon and take possession and hold for the use of the government such land and water, real estate and property as may be required for the use and maintenance of the various enterprises and improvements ordered to be proceeded with as by Section 3 of this Act provided, and the compensation to those whose land or water may be taken or injuriously affected shall be determined in like manner as is provided in Sections 2, 3, 4, 5, 6 and 7 of an Act approved on the 18th day of August, 1860, entitled "An Act to authorize the Minister of Interior to take possession of whatever land and water may be required for the use of the Honolulu Water Works;" and in case the land and water necessary to be taken and made use of by such improvement is the property of the Hawaiian Government, the Minister of Interior is hereby authorized to take and use the same for such purposes without further process, and without compensation to the government.

SECTION 6. Upon completion of each or any of the improvements authorized to be made by this Act, there shall be levied and collected for the benefit of the Public Treasury a special tax upon all lands directly benefited by the said improvements, the said tax to be adjusted equitably per acre of cultivated land, but in no case to exceed the sum of two dollars per acre per annum, and in case the improvements



be the introduction of water for irrigating purposes, then not to exceed the sum of eight dollars per annum for each acre of cultivated land, and for other purposes such a tax as may seem just and equitable to said Minister.

SECTION 7. The Minister of Finance is hereby authorized to pay the reasonable traveling expenses of said commissioners and of such officers as may accompany them while actually employed in such service, and these amounts as well as the damages that may be determined and awarded in pursuance of Section 5 of this Act, shall be paid out of the avails of the bonds authorized to be issued by Section 4 of this Act, and the Minister of Finance is hereby required to keep a special account of the avails of such bonds as may be issued for each improvement carried out, and for all payments made for the construction of each of the improvements authorized by this Act, as well as other payments in pursuance thereof required by this section herein above, and to report the same to each session of the Legislature, and any excess of receipts over expenditures shall go to the benefit of the Public Treasury.

SECTION 8. The Minister of Interior is hereby authorized to make all and needful regulations in regard to the use of any landings and roads, or other facilities for the shipment of produce, constructed in pursuance of the provisions of this Act, and in case a water course for irrigation or other purposes be constructed, to regulate the quantity of water which the various land-owners within reach of such water course may use, and also the time and method of such use, as well as such other regulations as may be deemed reasonable and necessary.

SECTION 9. On the adoption of any report by the King in Privy Council, as provided by Section 3 of this Act, if the same be in reference to the construction of any water course for the purpose of irrigation, or for the furnishing power for

the manufacturing of agricultural products, it shall be the duty of the Minister of Interior to advertise in two or more newspapers published in Honolulu, for such time as he may deem advisable, for sealed proposals from individuals or corporations to do the work required to construct the contemplated water course at their own cost and expense, and in consideration therefor the Minister of Interior is hereby authorized and directed to grant to the successful bidder the lease of the proposed water course for a term not to exceed thirty years, with the privilege of all profits to be made thereon. The same with all its improvements to revert to the government at the expiration of the term granted, the government to guarantee an interest on the cost of such water courses not to exceed the sum of six per cent. The bid to be considered the best, which proposes the shortest term of the concession and the lowest rate of interest on the cost required to be guaranteed by the government, provided always that the successful bidder shall execute to the Minister of Interior a good and sufficient bond, under a penalty to be therein named, conditioned for the construction of the said water course within a reasonable time to be therein appointed. In case no satisfactory tender be made, the Minister of Interior is then authorized to proceed with the work, anything in this section contained to the contrary notwithstanding; and in case a grant of the concession be made, the said Minister of Interior is hereby authorized to proceed as in Section 5 of this Act required for the condemnation of whatever land or water may be necessary, and all the provisions of said Section 5 shall be held to apply in such a case.

Approved this 25th day of September, A. D. 1876.

KALAKAUA R.

## CHAPTER LIV.

### AN ACT

TO REPEAL AN ACT BEING CHAPTER 54 OF THE STATUTE LAWS OF 1874, ENTITLED AN ACT TO AUTHORISE A NATIONAL LOAN AND TO DEFINE TO WHAT USES SUCH LOAN SHALL BE DEVOTED.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. That the Act being Chapter 54 of the Statute Laws of the year one thousand eight hundred and seventy-four, entitled "An Act to authorise a National Loan and to define to what uses such loan shall be devoted," shall be and the same is hereby repealed.

SECTION 2. This Act shall take effect and become a law from the date of its approval.

Approved this 26th day of September, A. D. 1876.

KALAKAUA R.

## CHAPTER LV.

### AN ACT

RELATING TO STAMP DUTIES.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. From and after the coming into operation of this Act, there shall be due and payable to His Majesty in respect of the several deeds, documents and instruments mentioned and specified in the schedule hereunder written, the several sums of money for Stamp Duty set forth in the said schedule.

SECTION 2. The Minister of Finance shall and he is hereby required to obtain a sufficient number of dies for stamps and of adhesive stamps to carry out the provisions of this Act.

SECTION 3. The said dies and adhesive stamps shall be placed in charge of the Registrar of Public Accounts, who shall stamp all instruments requiring to be stamped with the proper stamp denoting the amount of duty paid, and shall supply to any person applying therefor such adhesive stamps as he may require and pay for. Provided, that until the Minister of Finance shall, by public notification in all the newspapers published in Honolulu, that he has adhesive stamps sufficient to supply the wants of the public, postage stamps of the Kingdom may be affixed by the parties to all instruments liable to a stamp duty of less than one dollar.

SECTION 4. All persons using adhesive stamps or postage stamps shall immediately deface and cancel the same by writing across them their names and the date of cancellation, or by some other means deface the same so that they may not be used a second time.

SECTION 5. Every instrument requiring to be stamped shall be stamped fairly and so that the stamp cannot be used for another instrument on the same paper.

SECTION 6. Every instrument containing distinct matters or made for more than one consideration, shall be stamped on each matter or consideration.

SECTION 7. All consideration money shall be set out in words at length in all instruments, and all other considerations affecting the liability of an instrument to duty shall be set out fully.

SECTION 8. All instruments except those for which adhesive stamps may be used, may be stamped by the Reg-

istrar of Public Accounts within three months after the execution thereof without any penalty being charged; but if stamped after the said space of three months the instrument shall be liable to, and the person presenting the same, shall pay a penalty of one hundred per cent. of the value of the duty. Provided, however, that instruments executed in foreign countries may be stamped within three months after their arrival in this Kingdom without the payment of any penalty.

SECTION 9. No instrument requiring to be stamped shall be recorded by the Registrar of Conveyances, or be of any validity in any court of this Kingdom, unless the same shall be properly stamped. Provided that instruments improperly stamped may be received in evidence in Courts of Record if the unpaid duty and penalty be paid to the clerk of the court, and on such payment being made the clerk of the court shall forward the instrument to the Registrar of Public Accounts to be properly stamped.

SECTION 10. The Registrar of Public Accounts shall in all cases assess the duty payable upon instruments presented to him to be stamped, and on payment of the same he shall affix stamps denoting the amount paid and shall also denote the day of payment.

SECTION 11. If the Registrar of Public Accounts shall think an instrument presented to be stamped is not liable to duty, he shall affix a stamp thereon denoting such fact.

SECTION 12. If the Registrar of Public Accounts shall be in doubt as to whether an instrument is liable to Stamp Duty, or as to the amount of duty payable, he shall refer the matter to the Minister of Finance.

SECTION 13. Any person dissatisfied with the assessment made by the Minister of Finance may, on paying the duty within twenty-one days, and depositing with the Minister of

Finance the sum of ten dollars for costs, appeal to the Supreme Court on a case which he may require the Minister to furnish, and the Court shall decide the question at the next ensuing term thereof. If the decision of the Minister is sustained, the sum deposited for costs shall be paid to the Clerk of the Court; otherwise shall be returned to the appellant.

SECTION 14. When the consideration for a conveyance consists of periodical payments for a definite period, duty shall be charged on the total amount of such payments.

SECTION 15. If such payments are for a period not terminable with a life, then duty shall be paid on the total amount of the payments for twelve years after the execution of the deed.

SECTION 16. When the consideration is a life annuity, duty shall be paid on the amount of the payments for seven years after the execution of the deed.

SECTION 17. When property sold for one consideration shall be conveyed by separate instruments to a purchaser, the consideration shall be apportioned as the purchaser may think fit.

SECTION 18. When a purchaser who has not obtained a conveyance shall sell to another and the property shall be conveyed direct to the latter, duty shall be charged on the consideration from the sub-purchaser to the first purchaser.

SECTION 19. When the consideration for any conveyance or other transfer of property consists of goods or other lands, the duty shall be calculated upon the market value of such goods or lands, to be ascertained in such manner as the Minister of Finance may direct.

SECTION 20. Where property is conveyed subject to a mortgage, the amount due upon such mortgage shall be stated in the body of the conveyance, and duty shall be calculated and paid upon the amount so due and the amount expressed to be paid in addition.

SECTION 21. In case of the sale of a sugar plantation, rice plantation, sheep or cattle run, then duty shall be charged and paid upon the whole amount paid for the plantation, run, improvements, stock and growing crops.

SECTION 22. The Registrar of Public Accounts may impress stamps upon blanks and furnish them to the courts, executive departments, collectors of customs, members of the bar and others as the public convenience may from time to time require, upon receiving the amounts of such stamps. Provided, however, that the Collector General of Customs and other public officers required to use stamps in the execution of their duties, shall be entitled to receive them without such payments, they giving receipts therefor and being bound to account for the use and proceeds of the same to the proper department in their returns as required by law.

SECTION 23. The Minister of the Interior may stamp all instruments which are now by law liable to stamp duty, if executed before this Act shall come into operation, and if presented to him for that purpose before the expiration of one month after that date; but all instruments not so presented within such time shall be liable to and shall be charged with the duties payable under this Act.

SECTION 24. The following laws and parts of laws shall be and the same are hereby repealed: Sections 422, 423, 424, and 425 of the Civil Code; an Act approved on the 13th day of May, A. D. 1868, entitled "An Act to amend Sections 422, 423, and 425 of the Civil Code."

SECTION 25. This Act shall come into operation and become a law on the first day of January next.

THE SCHEDULE HEREINBEFORE REFERRED TO.

Agreement .....\$ 1.00

When divers letters are offered in evidence to prove agreement between the writers it shall be sufficient to stamp one of such letters.

Annuity—Purchase of, release, re-conveyance of, when the consideration does not exceed one thou- sand dollars .....	\$ 1.00
For every \$1000 or part of \$1000 after the first...	1.00
Articles of co-partnership.....	5.00
Articles of adoption.....	1.00
Assignment of property, real or personal, not other- wise charged.....	1.00
Bill of exchange or promissory note for payment of any sum of money otherwise than when payable to bearer at sight or on demand, for the first \$500.....	.25
And for every \$500 or part of \$500 after the first.	.25
Foreign bill, draft or order drawn in but payable out of this Kingdom, or drawn payable out of but in- dorsed and negotiated within this Kingdom, or drawn out of and payable within this Kingdom, otherwise than when payable to bearer at sight or on demand. The same duty as on an island bill of lading (except when given in the coasting trade)	.25
Bill of sale of ships or vessels or other property, if ab- solute, the same duty as on a conveyance, if by way of security the same duty as on a mortgage.	
Bond—If given to secure the payment of a sum certain and without mortgage, the same duty as on a mortgage; if given with a mortgage, provided mortgage bears even date with and is referred to in the bond....	exempt.
All other bonds, official or otherwise.....	\$ 1.00
Charter party or agreement, or contract for charter of vessel, or relating to freight .....	10.00
Charters, public or private.....	25.00
Commission in government service.....	1.00
Contracts between masters and servants for labor.....	1.00



If for more than one year, then for each year or part of a year after the first.....	\$ 1.00
(This duty to be charged on each copy and to be paid by the employer).	
Conveyance upon the sale of any property real or personal, or rights therein upon the principal or only deed or instrument, when the purchase or consideration money therein expressed shall not exceed \$500.....	1.00
And when exceeding \$500, then for every \$500, and also for any fractional part of \$500.....	1.00
Upon trust for sale as security, same duty as upon a mortgage.	
Deed not otherwise charged.....	1.00
Duplicate or counterpart of any deed or instrument of any description whatever chargeable with Stamp Duty not otherwise charged.....	1.00
Exchange deed, whereby any lands or other hereditaments are conveyed in exchange for others; if no sum or a sum not exceeding \$500 is paid or to be paid for equality of exchange.....	1.00
If above \$500 ad valorem duty as on sale on money to be paid.	
Entries, manifests, permits and other documents or exhibits required by law at the Custom House.....	1.00
Lease in consideration of money paid by way of premium ad valorem duty the same as on conveyance upon the amount paid, and where a yearly rent is reserved in addition to the premium or no premium is paid, where such rent shall not exceed \$1000 per annum.....	1.00
If above \$1000 per annum, then for every \$1000 or fractional part thereof.....	1.00
Letter of license from creditors to a debtor.....	10.00

Letters testamentary, or of administration or of guardianship .....	\$ 1.00
Licenses issued from the office of the Minister of Interior or other government department.....	1.00
Mortgage, or charge on, or affecting any lands, estate or property, real or personal whatsoever. Also, any conveyance of lands, estate or property whatsoever in trust, to be sold or converted into money which shall be intended only as a security, and shall be redeemable before the sale or disposal thereof, either by express stipulation or otherwise (except where for benefit of creditors generally). Where respectively as a security for payment of any definite and certain sum of money advanced or lent at the time or previously due and owing or forborne to be paid, being payable, not exceeding \$1000.....	1.00
And where exceeding \$1000, then for every \$1000 and fractional part of a \$1000.....	1.00
Future advances or sums to be due on account current, together with any sum already advanced or due or without, as the case may be. If total amount of money secured or to be ultimately recoverable thereupon shall be limited, not to exceed a certain sum duty as on mortgage for that sum. If such total amount uncertain and without any limit, same shall be available as a security or charge for such an amount only as the ad valorem duty denoted by the stamp or stamps thereon will extend to cover.	
Partition, any deed whereby any lands or other hereditaments shall be conveyed in order to effect a partition. If no sum or under \$500 is paid or	

agreed to be paid for equality of partition.....	\$ 1.00
If exceeding \$500 ad valorem duty as on sale.	
Patents, Royal for land.....	1.00
For inventions.....	10.00
Policy of marine insurance or other instruments where- by any ship, vessel or merchandise is insured against marine risks. If the voyage insured against is to or from Europe, China, Japan, or the Eastern Coast of the Continent of America or any East or West Indian ports. For every \$1000 or part thereof assured.....	1.00
If the voyage insured against is to or from Austra- lia, New Zealand, the Fijian or Samoan Islands, the Western Coast of the Continent of America, to the southward of the State of California, for every \$1000 or part thereof assured .....	.50
If the voyage insured against is to or from Califor- nia, Oregon, British Columbia, Washington Terri- tory, Tahiti, or any other of the Polynesian or Micronesian Islands, and other places where insu- rance is of the like rates, for every \$1000 or part thereof assured .....	.25
Power of attorney.....	1.00
Process of courts of record, all petitions, summonses, attachments, or other process.....	2.00
Protest against granting of passport .....	3.00
Release, reconveyance, or other discharge of mortgage	1.00
Renunciation or disclaimer of any lands or other prop- erty, real or personal, or of any right or interest therein .....	2.00
Settlement of real or personal property, money or gov- ernment bonds upon the marriage of any person or otherwise, or upon good or valuable considera-	

tion other than a bona-fide pecuniary consideration \$ 5.00  
Exemptions from ad valorem and other duties,  
wills, testaments, and testamentary instruments of  
what nature soever.

Approved this 27th day of September, A. D. 1876.

KALAKAUA R.

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## CHAPTER LVI.

### AN ACT

TO AMEND SECTION 56 OF THE CIVIL CODE.

*Be it Enacted by the King and the Legislative Assembly of the  
Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. Section 56 of the Civil Code shall be and the same is hereby amended so as to read as follows:

“Section 56. The Minister of the Interior shall grant to any person applying therefor in writing, a license to sell goods, wares, and merchandise at wholesale, for the term of one year; such application shall contain a statement of the average monthly receipts of the applicant from sales at wholesale during the preceding twelve months, and if the applicant shall have previously held a license to sell by wholesale, then a statement of the expected average monthly sales at wholesale during the succeeding twelve months; such applications shall be verified by the oath of the applicant if required by the Minister; the amount to be paid by such applicant for a wholesale license shall be as follows: If the amount of the average monthly sales shall not exceed three thousand dollars, the annual license shall be one hundred dollars, if the amount of such sales shall exceed three thousand dollars and shall not exceed six thousand dollars,

the annual license shall be one hundred and fifty dollars, and an additional sum of fifty dollars for every three thousand dollars or fractional part thereof."

Approved this 27th day of September, A. D. 1876.

KALAKAUA R.

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## CHAPTER LVII.

### AN ACT

RELATING TO THE JURISDICTION OF THE PROBATE COURTS OF THIS KINGDOM RESPECTING THE SALE OF REAL ESTATE OF DECEASED PERSONS, FOR THE PURPOSE OF PAYING THEIR DEBTS.

WHEREAS, doubts have arisen as to the jurisdiction of the Probate Courts of this Kingdom to order the sale of real estate of deceased persons for the purpose of paying their debts; and it is expedient to remove such doubts, therefore,

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. That the Probate Courts of this Kingdom have had from the time of their establishment, and now have, and hereafter shall continue to have jurisdiction to order and decree the sale of any real estate of deceased persons for the purpose of paying their debts, whensoever the personal estate of such deceased persons shall prove to be insufficient for the purpose.

Approved this 27th day of September, A. D. 1876.

KALAKAUA R.

## CHAPTER LVIII.

## AN ACT

TO INCREASE THE IMPORT DUTIES UPON CERTAIN GOODS.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. There shall be levied, collected, and paid upon the following goods, imported into this Kingdom a duty of twenty-five per cent. ad valorem, to wit:

Silks, satins and silk velvet, and all manufactures of which silk shall form the principal material;

Clothing ready made, and wearing apparel of every description, made up in whole or in part;

Carriages of all descriptions;

Hats and caps of all kinds;

Linens and all manufactures of which flax, grass-cloth or a similar material shall form the principal part, except bags and bagging and canvas for ship's use;

Crockery and glassware of every description;

Drugs and medicines, patent and other;

Furniture of all kinds if upholstered or carved manufactured in whole or in part;

Millinery goods, beads, braids, bonnets, buttons, corsets, collars, sleeves and cuffs, edgings, flowers (artificial), feathers (fancy), fringes for clothing and for upholstery;

Gloves and mitts not otherwise provided for;

Gimps for clothing;

Hoop skirts;

Hooks and eyes;

Insertions, laces and lace goods of all descriptions;

Ribbons not otherwise provided for;

Silver plate, plated ware, or gilt ware;

Britannia ware and fancy metal ware;

Tea;

Watches and clocks in whole or in part;  
 Cigarettes and all descriptions of paper cigars;  
 Jewelry and all descriptions of metal, glass, or stone  
 beads;

Paintings, pictures, engravings, statuary, bronzes, orna-  
 mental work of metal, stone, marble, plaster of Paris or  
 alabaster, and all imitations thereof;

Perfumery (other than that which pays a spirit duty),  
 scented soaps, powders, hair, tooth, nail and other toilet  
 brushes;

Pipes (smoking), pipe stems, bowls and fixtures, cigar  
 holders;

Candles;

Candies;

Peanut oil;

Toys;

Fire-arms and ammunition;

Fire-works and fire-crackers.

SECTION 2. There shall be levied, collected and paid upon  
 the following goods imported into this Kingdom specific  
 duties as follows :

On playing cards, one dollar per dozen packs ;

On kid and all other leather and skin gloves, three dollars  
 per dozen pairs ;

On cigars and cheroots, ten dollars per thousand ;

On China tobacco, fifty cents per pound ;

On camphor trunks, in nests of four, two dollars per nest ;  
 and in nests of two, one dollar per nest ;

On matches of all kinds, twenty-five cents per gross ;

On China matting, one dollar per roll ;

On port, sherry, madeira, and other wines of like nature  
 above 18 per cent. of alcoholic strength ; also on all cordials,  
 bitters and other articles of any name or description contain-

ing alcohol, or preserved in alcohol or spirits above that rate of strength and below thirty per cent., unless otherwise provided for, two dollars per gallon ;

On champagne, sparkling moselle and sparkling hock, three dollars per dozen reputed quarts, and fifty cents per dozen reputed pints ;

On claret, Rhine wines, and other light wines under 18 per cent. of alcoholic strength not otherwise provided for, one dollar per dozen reputed quarts, fifty cents per dozen reputed pints, and forty cents per gallon if in bulk ;

On ale, porter, cider and all fermented drinks not otherwise provided for, fifty cents per dozen reputed quarts, twenty-five cents per dozen reputed pints, and fifteen cents per gallon if in bulk.

Approved this 27th day of September, A. D. 1876.

KALAKAUA R.

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## CHAPTER LIX.

### AN ACT

#### TO AUTHORIZE A LOAN.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. The Minister of Finance, under the direction of His Majesty the King in Cabinet Council, is hereby authorized to issue Exchequer Bonds with Coupons attached, to an amount not exceeding Three Hundred Thousand Dollars ; said bonds to bear interest not exceeding nine per cent., payable semi-annually. Said bonds shall be signed by the Minister of Finance and countersigned by the Registrar



of Public Accounts, and shall bear upon their face the following words, to wit: "Issued under an Act to authorize a Loan, approved the.....day of.....1876"; and said bonds shall be made payable at such time as shall be specified upon their face, but not later than twenty years from the day of their date.

SECTION 2. The Act to authorize a Loan, approved the 29th day of July, 1872, is hereby repealed.

Approved this 27th day of September, A. D. 1876.

KALAKAUA R.

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## CHAPTER LX.

### AN ACT

TO REPEAL SECTION 4 OF AN ACT ENTITLED AN ACT TO AMEND THE LAW IN RELATION TO THE TAX ON ANIMALS, AND TO REPEAL SECTIONS 481 AND 497 OF THE CIVIL CODE, APPROVED ON THE 21ST DAY OF JULY, A. D. 1870.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. Section 4 of an Act entitled "An Act to amend the law in relation to the tax on animals, and to repeal Sections 481 and 497 of the Civil Code," shall be and the same is hereby repealed.

SECTION 2. All laws and parts of laws in contravention herewith are hereby repealed.

Approved this 29th day of September, A. D. 1876.

KALAKAUA R.

## CHAPTER LXI.

## AN ACT

TO AMEND SECTION 2 OF AN ACT ENTITLED AN ACT TO INCREASE THE IMPORT DUTIES UPON CERTAIN GOODS, APPROVED ON THE 27TH DAY OF SEPTEMBER, A. D. 1876.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

That Section 2 of an Act entitled an Act to increase the Import Duties upon certain goods, approved on the 27th day of September, A. D. 1876, be, and the same is hereby amended by inserting the words "one dollar and" after the words "three dollars per dozen reputed quarts and," in that part of the schedule forming part of said Act, referring to the duties on wines and spirits.

Approved this 29th day of September, A. D. 1876.

KALAKAUA R.

## CHAPTER LXII.

## AN ACT

TO AMEND SECTIONS 483 AND 484 OF THE CIVIL CODE.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. That Section 483 of the Civil Code, as amended by Chapter 25 of the laws of 1870, be and the same is hereby amended by striking out the words "one half," and inserting in place thereof the words "three quarters," and by inserting before the word "valuation" the words "full cash," and by striking out the words "in hand

and moneys loaned, all mortgages," and inserting in place thereof the words "notes of hand, unsecured debts, growing crops," so that the section as amended shall read as follows:

"Section 483. All personal property of whatever kind, not subject to specific taxes, or specially exempted from taxation, shall be subject to an annual tax of three-quarters of one per cent. upon the full cash valuation thereof. The term "personal property" shall be construed to include all household furniture, goods and chattels, wares and merchandise, all ships and vessels whether at home or abroad, all moneys, notes of hand, unsecured debts, growing crops, public stocks, stocks in corporations, and every species of property not included in real estate."

SECTION 2. That Section 484 of the Civil Code as amended by Chapter 25 of the laws of 1870, be and the same is hereby amended by striking out the words "one half," and inserting in place thereof the words "three quarters," and by inserting before the word "value" the words "full cash," and inserting after the word "same" "to be assessed in the district where situated irrespective of any mortgage," so that the section as amended shall read as follows:

"Section 484. There shall be assessed and collected upon all real property within the Kingdom, not specially exempted from taxation, an annual tax of three-quarters of one per cent. on the full cash value of the same, to be assessed in the district where situated irrespective of any mortgage. The term "real property" with respect to the assessment and collection of revenue, shall be deemed to include all lands and town lots, with the buildings, structures, and other things erected on, or affixed to the same."

SECTION 3. The tax of three-quarters of one per cent. provided by Sections 483 and 484, as above amended, shall be collected only upon property in excess of three hundred dollars, be the same real or personal.

SECTION 4. An Act entitled "An Act to amend Sections 483 and 484 of the Civil Code, relating to taxes on personal property and real estate" approved on the 18th day of July, A. D. 1870, and all other laws and parts of laws contrary to the provisions of this Act are hereby repealed.

SECTION 5. This Act shall take effect and become a law from and after the first day of March, A. D. 1877.

Approved this 29th day of September, A. D. 1876.

KALAKAUA R.

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## CHAPTER LXIII.

### AN ACT

TO AMEND CHAPTER 56 OF THE SESSION LAWS OF 1874, ENTITLED "AN ACT TO RESTRICT THE IMPORTATION AND SALE OF OPIUM."

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

That Chapter 56 of the Session Laws of 1874, entitled "An Act to restrict the importation and sale of opium," be, and the same is hereby amended by adding the words "or preparations thereof" to the title, and inserting after the word "opium" in the second section, the words "or preparations thereof," and by inserting a section after Section 4, to be numbered Section 4a, which shall read as follows :

Section 4a. The several police and district courts of the kingdom are hereby invested with authority to try and determine all cases arising under this law.

Approved this 29th day of September, A. D. 1876.

KALAKAUA R.

## CHAPTER LXIV.

## AN ACT

MAKING SPECIFIC APPROPRIATIONS FOR THE USE OF THE GOVERNMENT, DURING THE TWO YEARS WHICH WILL END WITH THE THIRTY-FIRST DAY OF MARCH, IN THE YEAR ONE THOUSAND EIGHT HUNDRED AND SEVENTY-EIGHT.

*Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:*

SECTION 1. The following sums amounting to One Million, Two Hundred and Sixty-Four Thousand, Seven Hundred and Thirty-Six Dollars and One Cent, are hereby appropriated out of any money in the Treasury for the service of the Biennial Fiscal Period, commencing with April 1st, 1876, and ending with March 31st, 1878, viz.:

## CIVIL LIST.

His Majesty's Privy Purse and Royal State.....	\$ 45,000 00
Expenses of His Majesty at Washington.....	20,000 00
His Royal Highness Prince Leleiohoku.....	6,000 00
His Majesty's Chamberlain and Secretary.....	5,000 00
	<hr/>
	\$76,000 00

## PERMANENT SETTLEMENTS.

Her Majesty Queen Emma .....	\$ 12,000 00
His Excellency P. Kanoa .....	2,400 00
Methusela Mahuka.....	600 00
	<hr/>
	\$15,000 00

## LEGISLATURE AND PRIVY COUNCIL.

Expenses of Legislature, 1874.....	\$ 1,362 15
Expenses of Legislature, 1876.....	21,500 00
Secretary Privy Council.....	200 00
Incidentals .....	100 00
	<hr/>
	\$23,162 15

## JUDICIARY DEPARTMENT.

Salary of Chief Justice and Chancellor .....	\$ 10,000 00
Salary of First Associate Justice .....	8,000 00
Salary of Second Associate Justice .....	8,000 00
Salary of Clerk of Supreme Court .....	4,000 00
Salary of Deputy Clerk of Supreme Court .....	3,000 00
Salary of Interpreter of Supreme and Police Courts	2,400 00
Salary of Circuit Judge of Maui .....	3,000 00
Traveling Expenses .....	200 00
Salary of Circuit Judges of Hawaii .....	3,600 00
Salary of Circuit Judge of Kauai .....	2,000 00
Salary of Police Justice of Honolulu .....	4,000 00
Do. for month of March, 1876 .....	125 00
Salary of Police Justice of Lahaina .....	1,200 00
Do. for February and March, 1876 .....	100 00
Salary of Police Justice of Hilo .....	1,400 00
Do. for January, February and March, 1876 ..	125 00
Salary of District Judge, Puna, Hawaii .....	600 00
Salary of District Judge, Kau, Hawaii .....	600 00
Balance of Salary of District Judge, Kau, Hawaii.	75 00
Salary of District Judge, North Kona, Hawaii ..	600 00
Salary of District Judge, South Kona, Hawaii ..	600 00
(If both offices held by one person, \$900)	
Salary of District Judge, North Kohala, Hawaii ..	600 00
Salary of District Judge, South Kohala, Hawaii ..	600 00
Salary of District Judge, Hamakua, Hawaii .....	600 00
Salary of District Judge, Wailuku, Maui .....	1,000 00
Salary of District Judge, Honuauia, Maui .....	400 00
Salary of District Judge, Makawao, Maui .....	600 00
Balance of Salary of District Judge, Makawao, Maui	75 00
Salary of District Judge, Hana, Maui .....	600 00
Salary of District Judge, Kaupo, Maui .....	600 00
(If both offices held by one person, \$800)	
Do. for October, November, December, 1875,	
January, February, March, 1876 .....	250 00

Salary of District Judge, Molokai.....	\$ 600 00
Traveling Expenses of do. to be expended under the supervision of the Governor of Maui.....	50 00
Salary of District Judge, Lanai.....	400 00
Salary of District Judge, Ewa and Waianae, Oahu	600 00
Salary of District Judge, Waiialua and Koolauloa, Oahu .....	600 00
(If filled by two persons, \$400 each.)	
Salary of District Judge, Koolaupoko, Oahu.....	600 00
Salary of District Judge, Hanalei and Anahola, Kauai.....	600 00
Salary of District Judge, Lihue, Kauai.....	600 00
Salary of District Judge, Koloa, Kauai.....	600 00
Salary of District Judge, Waimea, Kauai.....	600 00
Salary of Clerk of 2d Judicial Circuit Court.....	400 00
Salary of 1st Clerk of 3d Judicial Circuit Court..	300 00
Salary of 2d Clerk of 3d Judicial Circuit Court...	300 00
Salary of Clerk of 4th Judicial Circuit Court.....	300 00
Expenses of the Supreme Court.....	2,300 00
Expenses of Witnesses in Criminal Cases (to be allowed by the presiding Judge at his discretion)	300 00
Expenses of Circuit Court, 2d Judicial Circuit...	1,800 00
Expenses of Circuit Court, 3d Judicial Circuit...	1,800 00
Expenses of Circuit Court, 4th Judicial Circuit...	600 00
Purchase of Law Books .....	500 00
Stationery and Incidentals for all the Courts, (in- clusive of expenses for printing and postage)...	1,000 00
Furnishing the Chambers of the Chief Justice...	300 00
Printing the 3d Volume of the Decisions of the Supreme Court, in both languages.....	2,100 00
	<hr/>
	\$76,200 00

## DEPARTMENT OF FOREIGN AFFAIRS.

Salary of Minister.....	\$ 8,000 00
Salary of Secretary.....	4,000 00
Office Expenses Foreign Agents.....	1,500 00

Postage and Incidentals.....	\$ 1,800 00
Expenses foreign Missions.....	6,000 00
Salary of Minister Resident at Washington.....	8,000 00
Salary Charge d'Affaires, London.....	1,600 00
Relief and Return of Indigent Native Hawaiians from abroad.....	1,500 00
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	\$32,400 00

## DEPARTMENT OF WAR.

Support of Military and Volunteers.....	\$ 60,686 36
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## DEPARTMENT OF INTERIOR.

Salary of Minister.....	\$ 8,000 00
Balance of Salary of do.....	223 00
Salary of Chief Clerk.....	4,000 00
Salary of Second Clerk.....	3,000 00
Salary of Governor of Oahu.....	3,600 00
Salary of Governor of Maui.....	3,600 00
Salary of Governor of Kauai.....	2,400 00
Salary of Governor of Hawaii.....	3,600 00
Salary of Clerk of Governor of Oahu.....	800 00
Salary of Clerk of Governor of Maui.....	1,200 00
Salary of Clerk of Governor of Maui due and un- paid.....	150 00
Salary of Clerk of Governor of Kauai.....	1,000 00
Salary of Clerk of Governor of Hawaii.....	1,200 00
Salary of Jailor of Oahu Prison.....	3,000 00
Salary of Water Superintendent and Clerk of Mar- kets, Road Supervisor for the Island of Oahu, and Superintendent of Public Works.....	6,000 00
Salary of Clerk to Superintendent of Water Works and Clerk of Markets.....	1,920 00
Salary of Postmaster General.....	5,000 00
Salary of 1st Clerk, Post Office.....	2,400 00
Salary of 2d Clerk, Post Office.....	1,200 00
Pay of Postmasters, Hawaii.....	800 00



Pay of Postmasters, Maui, Molokai and Lanai...	\$ 1,000 00
Pay of Postmasters, Kauai.....	400 00
Pay of Mail Carriers.....	7,126 00
Incidentals, Post Office.....	3,280 00
Pay of Road Supervisors for Islands except Oahu.	7,000 00
Pay of Keeper Royal Mausoleum.....	600 00
Pay of Keeper of Mausoleum of Lunalilo .....	200 00
Expenses Mausoleum.....	250 00
For Purchase and Fencing of Land for Public Cemetery for Hawaiians .....	1,000 00
Pay of Messengers.....	2,080 00
Incidentals Interior Department.....	2,000 00
Copying Records of Land Commission .....	3,000 00
Purchase of Road Stock.....	1,000 00
Road Damages, and no other purpose.....	1,000 00
Roads and Bridges for Hawaii.....	7,000 00
For Maui, Molokai and Lanai .....	6,000 00
For Oahu .....	5,000 00
For Kauai.....	2,000 00
Public Improvements for Employment of Prison- ers, and no other purpose.....	10,000 00
Leper Establishment .....	55,000 00
Traveling Physicians and Nurses.....	12,000 00
General Expenses Board of Health.....	12,000 00
General Expenses Hawaiian Board of Health.....	1,000 00
Insane Asylum.....	10,000 00
Aid to Queen's Hospital .....	21,000 00
Government Surveying.....	13,000 00
Government Printing.....	2,000 00
Support of Prisoners .....	9,000 00
Fire Department, Honolulu .....	10,000 00
Interpreting and Translating .....	300 00
Expenses Bureau Water Works .....	3,200 00
Inter-Island Steam Navigation, and no other pur- pose .....	10,000 00

Running Expenses Steamer Pele.....	\$ 7,500 00
Repairs Steamer Pele.....	5,000 00
Anchors and Buoys.....	2,000 00
Dredging Honolulu Harbor.....	5,000 00
Repairs of Wharves, Honolulu.....	8,000 00
Lahaina.....	1,000 00
Makena.....	1,000 00
Light House, Honolulu.....	1,500 00
Repairs Light House, Honolulu.....	800 00
Light House, Lahaina.....	500 00
Light House, Hilo.....	400 00
Light House, Kawaihae.....	300 00
Repairs of Government Buildings.....	15,000 00
Fence for Emma Square.....	320 00
Veranda and Fence for New Government Buildings	7,000 00
Market at Lahaina.....	2,000 00
Market at Wailuku.....	1,200 00
Market at Hilo.....	1,200 00
Encouragement of Immigration, and no other purpose.....	35,000 00
For Engagements already entered into by Government for Importation of Laborers.....	22,000 00
San Francisco Mail Agency.....	800 00
Inner Telegraph Station.....	832 00
Water Supply for Honolulu.....	25,000 00
Library.....	500 00
Rent of Lot in front of Aliiolani Hale to March 31st, 1878.....	400 00
Rent of Aienui to March 31st, 1878.....	1,900 50
For Subsidizing an Inter-Island Steamer, and no other purpose.....	15,000 00
For Building New Inter-Island Steamer, and no other purpose.....	100,000 00
Boat Landings for Islands except Oahu, and no other purpose.....	5,000 00

Expenses under Act for Filing of Certificates of  
Boundaries in Interior Office..... 1,500 00

\$538,981 50

DEPARTMENT OF FINANCE.

Salary of Minister.....	\$ 8,000 00
Balance of Salary of Minister.....	250 00
Salary of Registrar of Public Accounts.....	4,000 00
Salary of Collector General.....	6,000 00
Salary of Deputy Collector.....	3,600 00
Salary of Surveyor and Guard.....	2,400 00
Salary of Storekeeper.....	2,400 00
Salary of Statistical Clerk.....	2,400 00
Assistant Guards, Honolulu and other ports, and no other purpose.....	1,800 00
Incidentals of Custom House, and no other pur- pose.....	1,500 00
Salary of Collector, Kawaihae.....	300 00
Salary of Collector, Kealākekua.....	100 00
Custom House Boat.....	880 00
Hospital Fund, (estimated receipts).....	4,000 00
Pay of Tax Assessors, not to exceed 5 per cent....	14,000 00
Pay of Tax Collectors, not to exceed 5 per cent....	12,000 00
National Debt falling due, and no other purpose..	90,000 00
Interest on National Debt.....	87,000 00
Incidentals Finance Department.....	2,000 00
Subsidy to Foreign Steam Lines.....	20,000 00
Expenses of Commission, Codifying Civil Code, to be expended by direction of the King in Privy Council.....	2,000 00
Stamps and Dies, and no other purpose.....	2,000 00
	<u>\$266,630 00</u>

DEPARTMENT OF ATTORNEY GENERAL.

Salary of Attorney General.....	\$ 8,000 00
Salary of Clerk of Attorney General.....	3,000 00

Salary of Marshal .....	6,000 00
Salary of Sheriff of Hawaii.....	4,000 00
Salary of Sheriff of Maui.....	4,000 00
Salary of Sheriff of Kauai.....	2,500 00
Salary of Clerk to Sheriff of Hawaii.....	1,000 00
Salary of Clerk to Sheriff of Maui.....	1,000 00
Police of Hawaii.....	10,000 00
Police of Maui.....	9,024 00
Police of Oahu.....	43,084 00
Police of Kauai.....	3,408 00
Apprehension of Criminals.....	2,000 00
Incidentals of Department.....	1,000 00
Expenses of Coroner's Inquests.....	600 00
	<hr/>
	\$98,716 00

## BUREAU OF PUBLIC INSTRUCTION.

Salary of Inspector General.....	\$ 4,000 00
Traveling Expenses of Inspector General.....	800 00
Salary of Clerk of Board of Education.....	3,600 00
Support of Hawaiian and English Schools.....	38,000 00
Support of Common Schools.....	13,000 00
Reformatory Schools.....	10,000 00
New Buildings for Reformatory School.....	4,500 00
Building and Repairs of School Houses.....	1,000 00
Scholarships at Oahu College for Hawaiians.....	360 00
National Museum, and no other purpose.....	1,000 00
Stationery and Incidentals, Board of Education..	700 00
	<hr/>
	\$76,960 00

## RECAPITULATION.

Civil List .....	\$ 76,000 00
Permanent Settlements .....	15,000 00
Legislature and Privy Council.....	23,162 15
Judiciary Department.....	76,200 00
Department Foreign Affairs.....	32,400 00
Department of War .....	60,686 36

Department of the Interior.....	538,981	50
Department of Finance.....	266,630	00
Department of Attorney General.....	98,716	00
Bureau of Public Instruction.....	76,960	00
		<hr/>
	\$1,264,736	01

SECTION 2. The Minister of Finance shall credit the appropriations of the last Biennial Fiscal Period all the amounts appropriated by the Act approved the 1st Day of August, A. D. 1874, and remaining unexpended on the 31st day of March, A. D. 1876, not otherwise re-appropriated, and such amounts shall be deemed no longer available for the objects for which they were originally appropriated.

SECTION 3. The Minister of Finance shall continue to pay the salaries appropriated by this Act, the compensation of Soldiers and Constables, the compensation of School Teachers, and the current expenses of the Bureau of Education, the expenses of the Fire Department, of the Supreme and Circuit Courts, Exchequer Bills and Government Stocks, and the interest accruing thereon, until the 30th day of June, A. D. 1878, unless new appropriations are made before that date.

SECTION 4. The Minister of Finance shall not cause or allow to be paid from the Treasury any money for objects not provided for by this law.

SECTION 5. It shall be lawful for the heads of Departments, in cases where special appropriations may fall short, to apply to same the surplus of other special appropriations in the same Department, not required to be expended, so as to make up the deficiency, each head of Department duly accounting to the Legislature for such transfer; but in no case shall appropriations for internal improvements in one gubernatorial division be transferred to another.

SECTION 6. No person holding more than one office for which

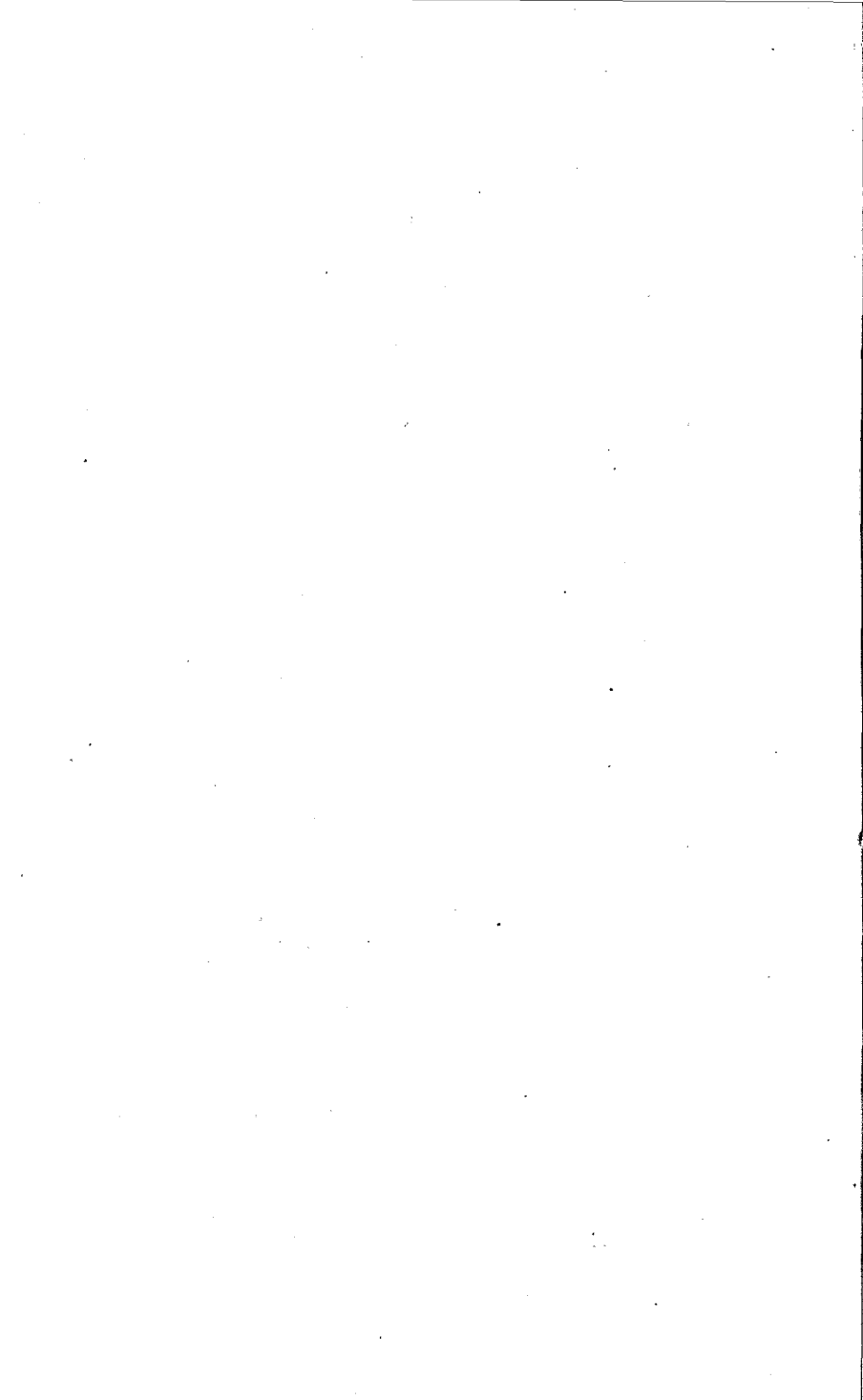
salaries are provided shall be authorized to draw for more than the salary of the highest grade of office held by him, if the salary of any office held by him shall amount to two thousand dollars or more per annum, and he shall be entitled to no other or further compensation whatever, for any other services he may render the government.

SECTION 7. This Act shall take effect from and after the date of its passage.

Approved this 29th day of September, A. D. 1876.

KALAKAUA R.







# TREATY OF RECIPROCITY

BETWEEN THE UNITED STATES OF AMERICA  
AND THE HAWAIIAN KINGDOM.

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The United States of America and His Majesty the King of the Hawaiian Islands, equally animated by the desire to strengthen and perpetuate the friendly relations which have heretofore uniformly existed between them, and to consolidate their commercial intercourse, have resolved to enter into a Convention for Commercial Reciprocity. For this purpose, the President of the United States has conferred full powers on Hamilton Fish, Secretary of State, and His Majesty the King of the Hawaiian Islands has conferred like powers on Honorable Elisha H. Allen, Chief Justice of the Supreme Court, Chancellor of the Kingdom, Member of the Privy Council of State, His Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States of America, and Honorable Henry A. P. Carter, Member of the Privy Council of State, His Majesty's Special Commissioner to the United States of America.

And the said Plenipotentiaries, after having exchanged their full powers, which were found to be in due form, have agreed to the following articles :

## ARTICLE I.

For and in consideration of the rights and privileges granted by His Majesty the King of the Hawaiian Islands in the next succeeding article of this Convention, and as an equivalent therefor, the United States of America hereby

agree to admit all the articles named in the following schedule, the same being the growth and manufacture or produce of the Hawaiian Islands, into all the ports of the United States free of duty.

SCHEDULE.

Arrow-root, castor oil, bananas, nuts, vegetables, dried and undried, preserved and unpreserved; hides and skins, undressed; rice; pulu; seeds, plants, shrubs, or trees; muscovado, brown, and all other unrefined sugar, meaning hereby the grades of sugar heretofore commonly imported from the Hawaiian Islands, and now known in the markets of San Francisco and Portland as "Sandwich Island sugar"; syrups of sugar-cane, melado, and molasses; tallow.

ARTICLE II.

For and in consideration of the rights and privileges granted by the United States of America in the preceding article of this Convention, and as an equivalent therefor, His Majesty the King of the Hawaiian Islands hereby agrees to admit all the articles named in the following schedule, the same being the growth, manufacture, or produce of the United States of America, into all the ports of the Hawaiian Islands free of duty.

SCHEDULE.

Agricultural implements; animals; beef, bacon, pork, ham, and all fresh, smoked, or preserved meats; boots and shoes; grain, flour, meal, and bran, bread and breadstuffs, of all kinds; bricks, lime, and cement; butter, cheese, lard, tallow; bullion; coal; cordage, naval stores including tar, pitch, resin, turpentine raw and rectified; copper and composition sheathing; nails and bolts; cotton and manufactures of cotton, bleached and unbleached, and whether or not

colored, stained, painted, or printed ; eggs ; fish and oysters, and all other creatures living in the water, and the products thereof ; fruits, nuts, and vegetables, green, dried or undried, preserved or unpreserved ; hardware ; hides, furs, skins and pelts, dressed or undressed ; hoop iron and rivets, nails, spikes, and bolts, tacks, brads, or sprigs ; ice ; iron and steel and manufactures thereof ; leather ; lumber and timber of all kinds, round, hewed, sawed and unmanufactured, in whole or in part ; doors, sashes, and blinds ; machinery of all kinds, engines and parts thereof ; oats and hay ; paper, stationery, and books, and all manufactures of paper or of paper and wood ; petroleum and all oils for lubricating or illuminating purposes ; plants, shrubs, trees, and seeds ; rice ; sugar, refined or unrefined ; salt ; soap ; shooks, staves, and headings ; wool and manufactures of wool, other than ready-made clothing ; wagons and carts for the purposes of agriculture or of drayage ; wood and manufactures of wood, or of wood and metal except furniture either upholstered or carved and carriages ; textile manufactures, made of a combination of wool, cotton, silk, or linen, or of any two or more of them other than when ready-made clothing ; harness and all manufactures of leather ; starch ; and tobacco, whether in leaf or manufactured.

### ARTICLE III.

The evidence that articles proposed to be admitted into the ports of the United States of America, or the ports of the Hawaiian Islands, free of duty, under the first and second articles of this Convention, are the growth, manufacture, or produce of the United States of America or of the Hawaiian Islands, respectively, shall be established under such rules and regulations and conditions for the protection of the revenue as the two Governments may from time to time respectively prescribe.

## ARTICLE IV.

No export duty or charges shall be imposed in the Hawaiian Islands, or in the United States, upon any of the articles proposed to be admitted into the ports of the United States or the ports of the Hawaiian Islands free of duty under the first and second articles of this Convention. It is agreed, on the part of His Hawaiian Majesty, that, so long as this Treaty shall remain in force, he will not lease or otherwise dispose of or create any lien upon any port, harbor, or other territory in his dominions, or grant any special privilege or rights of use therein, to any other power, state or government, nor make any treaty by which any other nation shall obtain the same privileges, relative to the admission of any articles free of duty, hereby secured to the United States.

## ARTICLE V.

The present Convention shall take effect as soon as it shall have been approved and proclaimed by His Majesty the King of the Hawaiian Islands, and shall have been ratified and duly proclaimed on the part of the Government of the United States, but not until a law to carry it into operation shall have been passed by the Congress of the United States of America. Such assent having been given, and the ratifications of the Convention having been exchanged as provided in Article VI, the Convention shall remain in force for seven years from the date at which it may come into operation; and further, until the expiration of twelve months after either of the contracting parties shall give notice to the other of its wish to terminate the same; each of the high contracting parties being at liberty to give such notice to the other at the end of the said term of seven years, or at any time thereafter.

## ARTICLE VI.

The present Convention shall be duly ratified, and the rati-

fications exchanged at Washington City, within eighteen months from the date hereof, or earlier if possible.

In faith whereof the respective Plenipotentiaries of the high contracting parties have signed this present Convention, and have affixed thereto their respective seals.

Done in duplicate, at Washington, the thirtieth day of January, in the year of our Lord one thousand eight hundred and seventy-five.

[SEAL]

HAMILTON FISH.

[SEAL]

ELISHA H. ALLEN.

[SEAL]

HENRY A. P. CARTER.

# TREATY BETWEEN AUSTRO-HUNGARY AND HAWAII.

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His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary on the one part, and His Majesty the King of the Kingdom of the Hawaiian Islands, on the other part being equally animated by the desire of regulating and extending the commercial relations and of promoting the facilities of navigation between their respective States and Possessions, have resolved to conclude a Treaty for that purpose, and have named for their Plenipotentiaries that is to say:

His Imperial and Royal Apostolic Majesty:—the Count Frederick Ferdinand de Beust, His Imperial and Royal Majesty's Chamberlain, Privy Councillor, Ambassador Extraordinary at the Court of St. James, Grand Cross of the Order of St. Stephen, and of that of Leopold, etc.: and His Majesty the King of the Kingdom of the Hawaiian Islands:—Manley Hopkins, Esq., His Hawaiian Majesty's Charge'd Affaires and Consul General in London, a Knight Commander of the Order of Kamehameha I., and of Isabella la Catolica, who after having communicated to each other their respective full powers, found to be in due and proper form, have agreed upon and concluded the following articles.

ARTICLE 1. There shall be perpetual peace and friendship between the Austro-Hungarian Empire and the Kingdom of the Hawaiian Islands, and between the citizens of the two countries, without exception of person and place.

ARTICLE 2. There shall be between the Austro-Hunga-

rian Empire and the Kingdom of the Hawaiian Islands, reciprocal freedom of commerce and navigation, and the citizens of the Austro-Hungarian Empire in the Hawaiian Islands, and Hawaiians within the Empire of Austria-Hungary may enter with their vessels and cargoes into all places, ports and rivers, which are, or shall hereafter be open to foreign commerce with the same liberty and security as are or may be enjoyed by the natives of each country respectively, always provided that the police regulations established for the preservation of peace and good order shall be, duly respected.

ARTICLE 3. The citizens of the two high contracting parties may, like the natives in the respective territories, travel, reside, trade wholesale or retail, and transact any lawful business and rent or occupy the houses, stores or shops which they may require for the purpose of residence or business, and in the transaction of every business shall be on a perfect equality with the natives of the country. In the performance of all business, the citizens of each contracting power when resident in the territory of the other, shall conform to all the laws and regulations of the country and they shall not be subject in any case to any other charges, restrictions, taxes, or impositions than those to which the natives are subject.

ARTICLE 4. The citizens of each high contracting party when resident in the territory of the other shall enjoy the most constant and complete protection for their persons and property, and for this purpose they shall have free and easy access to the courts of justice, provided by law, in pursuit and defence of their rights. They shall be at liberty to employ lawyers, advocates, or agents to prosecute or defend their rights before such courts of justice. In fact they shall enjoy in this respect all the rights and privileges which are granted to natives and shall be subject to the same conditions.

ARTICLE 5. The citizens of each high contracting party when resident in the territory of the other shall be exempt from all service, whether in the army or navy or in the national guard or militia, and shall be exempt from all forced loans and from every extraordinary contribution not general and by law established.

ARTICLE 6. The most entire liberty of conscience is guaranteed to citizens of each of the high contracting parties within the territories of the other—no one shall be molested on account of his religion or the observances thereof.

ARTICLE 7. The citizens of each of the high contracting parties shall in the territory of the other have the right of acquiring and possessing property of every description and kind, whether the same be real or personal property, and may dispose of the same as may seem to them best, whether by sale, donation, exchange, will, or in any other way, also the citizens of either of the two States may become heirs to property, situated in the other, and may succeed without hindrance to the properties that may devolve upon them, and dispose of the same according to their pleasure; and such heirs or legatees shall not be subjected to any charges or be bound to pay any expenses of succession or otherwise higher than those which shall be borne in like case by the natives themselves.

ARTICLE 8. All vessels sailing under the respective flags of either of the high contracting parties and which shall be bearers of the ship's papers and documents required by the laws of their respective countries, shall be taken and considered to be the vessels of the country whose flag they carry.

ARTICLE 9. Vessels of either of the high contracting parties arriving in the ports of the other, or departing from them, shall not be subjected to other or higher duties of



tonnage, light houses, anchorage, port charges, government wharfage, pilotage, quarantine or other charges, under any denomination whatsoever than those to which national vessels may be subjected; it being however expressly understood that no stipulation in this treaty made, shall be taken as applying to the coasting trade, which each contracting party reserves to itself, respectively, and will regulate according to its own laws.

ARTICLE 10. Articles of all sorts imported into or exported from the ports of either of the contracting parties under the flag of the other, shall pay no other or higher duties or be subjected to any other charges than if imported or exported under the national flag.

ARTICLE 11. Vessels of one of the contracting parties, compelled to seek shelter in the ports of the other, shall pay neither on the vessel nor the cargo more duties than those levied on national vessels in the same situation, provided that such ships carry on no commerce, and delay no longer in the aforesaid ports, than may be required for the purposes which impelled them to seek shelter.

ARTICLE 12. Austro-Hungarian ships of war or whale ships shall have free access to all the Hawaiian ports, to anchor, be repaired and victual their crews, and they may proceed from one harbor to another for fresh provisions. In all the ports which are or may be opened to foreign vessels, Austro-Hungarian ships of war and whalers shall be subject to the same rules which are or may be imposed on, and shall enjoy all the same rights and privileges which are or may be granted to ships of the most favored nation.

ARTICLE 13. The two high contracting parties hereby agree that any favor, privilege or immunity whatsoever in matters of commerce or navigation which either contracting party has granted, or may hereafter grant to the subjects or

citizens of any other state, shall be extended to the subjects or citizens of the other contracting party gratuitously, if the concession in favor of the other state shall have been gratuitous, or in return for a compensation as nearly as possible of proportionate value and effect, to be adjusted by mutual agreement, if the concession shall have been conditional.

ARTICLE 14. Each of the two contracting parties may appoint Consuls, Vice-consuls and Consular Agents to reside in the territory of the other for the purpose of the protection of commerce, but before any Consul shall enter upon his functions, he shall first obtain the authorization of the government to which he is sent; either of the contracting parties may except from the residence of Consuls such particular places as either may think fit to be excepted, it being understood that neither party will impose any restriction which is not common in the country to all nations.

ARTICLE 15. The Diplomatic Agents, Consuls-General, Consuls, Vice-consuls and Consular Agents of Austria-Hungary in the Hawaiian Islands, shall enjoy all the rights, privileges, immunities and exemptions enjoyed by the Diplomatic Agents, Consuls, Vice-consuls, and Consular Agents of the same rank, belonging to the most favored nation, and the same shall be the position in Austria-Hungary of the Hawaiian Diplomatic Agents, Consuls-General, Consuls, Vice-consuls and Consular Agents.

ARTICLE 16. The Consuls, Vice-consuls and Consular Agents of either of the contracting parties residing within the territory of the other, may require the assistance of the local authorities for the search, arrest, detention and imprisonment of the deserters from the ships of war or merchant vessels of their country. For this purpose they shall apply to the competent local authorities in writing, proving by the exhibition of the crew list or other official document, that

the persons named formed a part of the ship's crew, and this reclamation being there substantiated, the surrender shall not be refused. All aid and assistance shall be given for the discovery and arrest of such deserters, who shall be detained in the prisons of the country at the request and cost of those who shall claim them until they may be restored to the vessel to which they belonged, or sent back to their own country. If however they shall not be restored to the vessel from which they deserted or sent back to their own country within six months from the day of arrest, or if the party causing such arrest and imprisonment shall not defray the expenses thereof, the deserter may be set at liberty and shall not be arrested thereafter for the same cause. However, if the deserter shall have committed any crime or offence against the laws of the country where he is, his release shall not take place until a competent tribunal shall have given judgment, and that judgment be carried into execution. It is however understood that seamen, natives of either country who shall desert the vessels of either party, within the territories of their own country shall be excepted from this arrangement and treated according to the laws of their own country. And it is formally agreed between the two contracting parties that every other favor or facility granted or to be granted by either to any other party for the arrest of deserters, shall also be granted to the present contracting parties as fully as if they had formed part of the present treaty.

ARTICLE 17. All operations pertaining to the salvage of vessels carrying the flag of either of the contracting parties stranded or wrecked upon the coasts of either of the contracting parties shall be superintended by the respective Consular Agents ; but if the persons interested be on the spot, or the captain possess adequate powers, the administration of the wreck shall be committed to them. The intervention of the

local authorities shall only be applied to the maintenance of order, to guarantee the rights of the salvors if they do not belong to the shipwrecked crew, and to insure the execution of the measures to be taken for the entry and departure of the saved goods. In the absence, and until the arrival of the Consular Agents, the local authorities will take the needful steps for the protection of persons and property wrecked. The goods saved shall never be subjected to customs or other duty unless they are disposed of for home consumption.

ARTICLE 18. The ship's merchandise and effects belonging to the respective citizens which may have been taken by pirates or conveyed to or found in the ports of either of the contracting parties shall be delivered to their owners on payment of the expenses, should there be such, the amount to be determined by the competent tribunals when the rights of the proprietors shall be proved before the tribunals and the claim being made within the space of eighteen months by the interested parties, by their attorneys, or by the agents of their respective governments.

ARTICLE 19. The present shall be in force for ten years counting from the day of the exchange of the ratifications, and if in one year after the expiration of this term neither the one nor the other of the two contracting parties shall have announced by official declarations its intention that it shall cease to have effect, the said treaty will remain still obligatory during one year, and so onward until the expiration of the twelve months which shall follow the official declaration in question at whatever time it may be made.

ARTICLE 20. The present treaty shall be ratified, and the ratifications shall be exchanged at London in ten months or sooner if possible.

In witness whereof the respective Plenipotentiaries have signed the same and affixed thereto their respective seals.

Done in London, this eighteenth day of June in the year of our Lord, one thousand eight hundred and seventy-five.

[L. s.]

BEUST.

[L. s.]

MANLEY HOPKINS.

And, whereas, we have fully examined all the articles thereof, we have confirmed and ratified the foregoing treaty, and we do confirm and ratify the same, in the most effectual manner, promising on our faith and word as king, for us and our successors, to fulfill and observe it faithfully and scrupulously in all its clauses.

In faith whereof we have signed this ratification with our own hand, and have affixed thereto the Great Seal of our Kingdom. Given at our Palace at Honolulu this sixth day of December, one thousand eight hundred and seventy-five, and in the second year of our reign.

[L. s.]

KALAKAUA R.

BY THE KING,

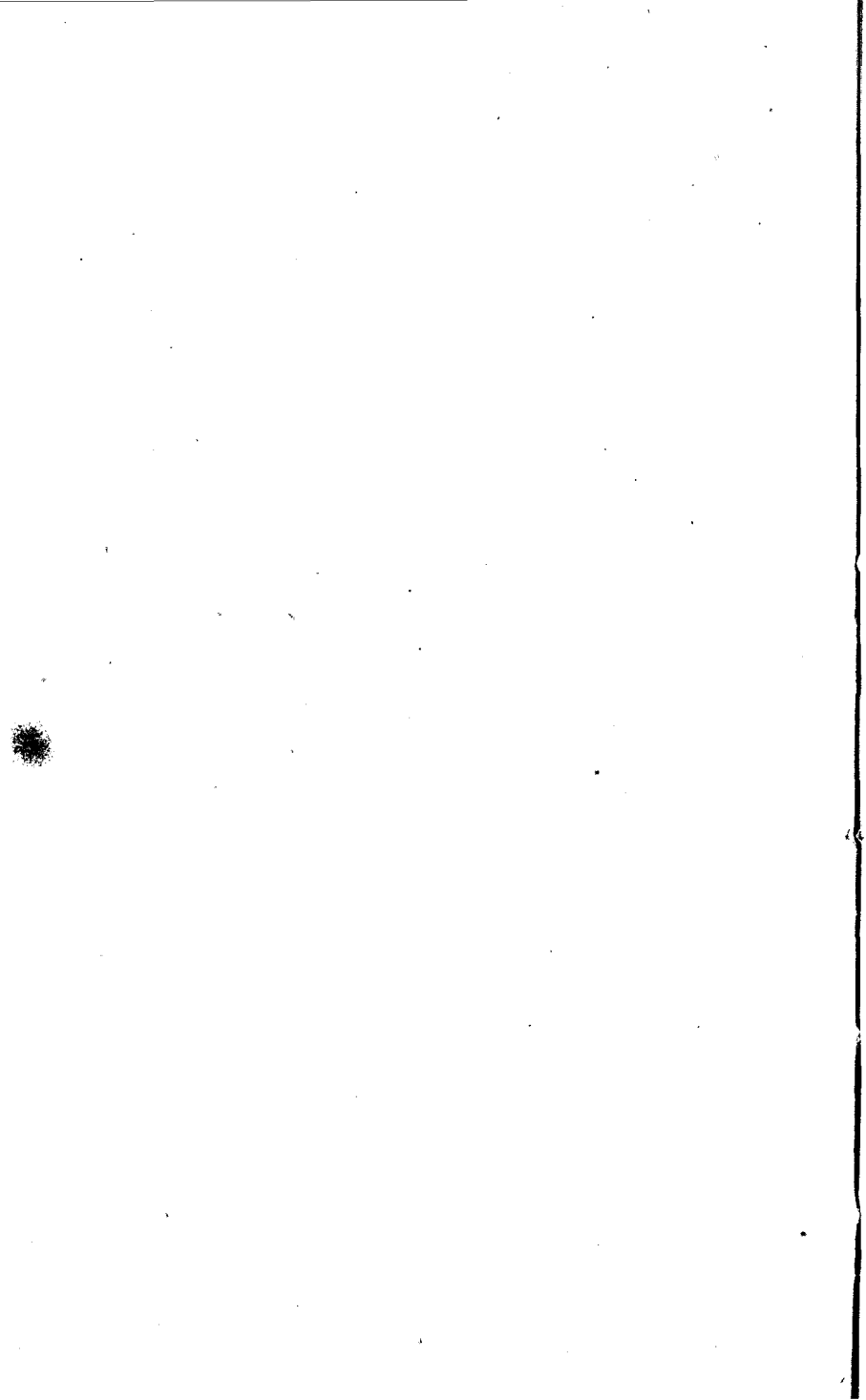
W. L. GREEN, Minister for Foreign Affairs.

Now, all persons are hereby notified that the said treaty is a part of the law of this Kingdom, and is to be regarded as such.

[L. s.]

W. L. GREEN,  
Minister for Foreign Affairs.

Foreign Office, June 2d, 1876.



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